TRACTATE SANHEDRIN MISHNAH AND TOSEFTA

Translations of Early Documents

101.6 D
D35 T7
1919

13

Dr

TRANSLATIONS OF EARLY DOCUMENTS

SERIES III

RABBINIC TEXTS

TRACTATE SANHEDRIN

TRACTATE SANHEDRIN

MISHNAH AND *TOSEFTA*

THE JUDICIAL PROCEDURE OF THE JEWS
AS CODIFIED TOWARDS THE END OF THE
SECOND CENTURY A.D.

TRANSLATED FROM THE HEBREW WITH BRIEF ANNOTATIONS

BY

HERBERT DANBY, M.A.

SUB-WARDEN OF ST. DEINIOL'S LIBRARY, HAWARDEN

LONDON:
SOCIETY FOR PROMOTING
CHRISTIAN KNOWLEDGE
NEW YORK: THE MACMILLAN COMPANY
1919

JEWS' CO
LIBRA
LOND

JEWS' COLLEGE
LIBRARY
LONDON

INTRODUCTION

General Character and Contents

Sanhedrin is the title given to the fourth *tract* in the fourth of the six *orders* or *series* which make up the *Mishnah*.[1] This *order*, called *nezikin*, "damages" (or, in the *Tosefta*, *yeshu'oth*, "redemptions"), deals more or less directly with the various branches of Jewish jurisprudence; and *Sanhedrin*, as its name implies, treats of the higher legislative courts, their constitution, authority, and method of procedure.

The *Mishnah* and *Tosefta*, which are here translated,[2] may be regarded as together giving the bulk of the traditions on the subject in the form in which they existed at the close of the second century A.D. The *Mishnah* gives an ordered, comprehensive sketch of the regulations which

[1] On the general questions introductory to the study of Jewish literature, see the (forthcoming) volume in this series: *A Short Survey of the Literature of Rabbinical Judaism.*

[2] It is hardly necessary to say that the arrangement of alternate paragraphs of *Mishnah* and *Tosefta* employed in the present translation is not that found in the original texts. The two are quite distinct. It is adopted here in order to keep together the subjects treated of, and to illustrate the relation which exists between the two works. The sequence of subjects in *Mishnah* and *Tosefta* being identical, this arrangement can be carried out without changing the original order in any way.

governed the legal courts ; while the *Tosefta* goes over similar ground in a freer manner, frequently repeating, occasionally contradicting, and constantly supplementing—not always relevantly—the substance of the more authoritative and final code. The *Tosefta* must not, however, be regarded as a later addition to the existing *Mishnah;* its similarities and differences lend themselves rather to a hypothesis which would see in the *Tosefta* a supplement to an earlier form of the *Mishnah* than is now in our possession.[1]

The *Mishnah* opens by passing in review the less serious cases which come up for trial or adjudication, such as can be settled, if need be, on the basis of a money payment. They are passed by with just the briefest mention ; they are not a real part of the subject-matter, since they do not come before the Sanhedrin, but may be decided by a court or jury consisting of as few as three members. The constitution of the greater and lesser Sanhedrins is then given, with a summary of the types of case which comes before each—normal capital cases before the inferior court, and those of more national significance, such as communal

[1] The relation which the *Tosefta* bears to the *Mishnah* has never been satisfactorily determined. That the relation is very close is clear : the sequence of subjects in the two is identical, and the verbal similarity in certain cases extends over complete paragraphs. It is equally noteworthy that where the one gives scanty details, the other is generally diffuse, pointing to a conclusion that the one is complementary, or even a commentary on the other. The fragmentary style, inequality of treatment, frequent lacunae, and what would be obscurity if we lacked the *Mishnah* text, are conclusive against the possibility of the *Tosefta* being a separate, self-sufficient study of the same subject.

apostasy ("the beguiled city," Deut. xiii. 12 ff.), and the condemnation of a high priest, a false prophet, or a tribe, before the higher court. Then follows a section defining the relations which the king and high-priest hold to the court; characteristically the *Mishnah* wanders away from the main point in treating of the king, and gives us a verse by verse commentary on Deut. xvii. 16 ff.

The real subject of the tract is now entered upon. The qualities and disabilities which make a man eligible or ineligible to act as a judge or witness are stated, as well as the rights the two parties to a suit have in the selection of their judges. We are then told the method of conducting trials in non-capital cases, and a comparison with the details peculiar to the management of capital cases serves to emphasize the importance and seriousness of the latter. The method of carrying out the four death penalties is next discussed in the order of their relative severity: stoning, burning, decapitation, and strangulation. This again is followed by a catalogue, in four corresponding divisions, of the criminals who are respectively liable to these capital punishments.

The *Tosefta*, while preserving this same outline of the subject, allows itself a much greater licence in the way of digressions and minute detail. Thus, we are treated to lengthy excursuses on the principles of arbitration and the intercalation of leap-years; by an odd train of thought we are led away from the subject of the Sanhedrin and structural alterations in Jerusalem, to some verbal

gymnastics on Deut. xiv. 23 ; while the *Mishnah's* digression on the king develops in the *Tosefta* into a discussion on the script of Ezra's Book of the Law. In the matter of the court's procedure we are granted the amplest details, though here it becomes more and more clear that we are getting fewer traditions of the older historic Sanhedrin, and more of its academic survival at Jabne or Usha.[1]

When we come to the section treating of the four capital punishments, the *Tosefta's* contributions become scanty : on many points it is silent, while on a few others it only repeats the *Mishnah* with a few unimportant variations.

Between the account of the murderer and the men of "a beguiled city"—the two types of criminal who are to suffer death by decapitation—two sections are inserted : a brief one (not in *Tosefta*) giving a list of cases when it is permissible for men to take the law into their own hands ; and a longer one (expanded to a great length in *Tosefta*) treating in a freer, more edifying or "haggadic" fashion the subject, "Those who have no share in the world to come."[2]

[1] Compare especially *T.* vii. 8 f.

[2] It is probable that the second of these sections is a late comer into the tract. Both in its treatment and in its subject-matter it is out of place in its present context : it is difficult to see what logical connection it can have either with what follows or goes before. As a result of its present position it separates the phrase, "The members of a beguiled city" (*M.* x. 4), a whole chapter from its necessary antecedent (*M.* ix. 1 b) ; and in most editions of the text has induced the wrong reading, "The men of a beguiled city have no share in the world to come," in the attempt to find the missing antecedent. Further, in the *Mishnah* of the Babylonian Talmud its position is different : there, the two final chapters of the tract have their order reversed.

Importance and Historical Value

The general interest of the tract is evident since trials before the Jewish authorities form a prominent feature of the *Gospels* and *Acts of the Apostles*. More particularly the justice and regularity of our Lord's trial and condemnation have long been called in question, and a voluminous literature has grown round the subject.[1] We have the New Testament accounts of the procedure adopted by the Jews in their examination and condemnation of Jesus; and, since we also possess a detailed code, drawn up by the Jews themselves, purporting to embody the regulations governing such a trial, it should be open to all to make the comparison and arrive at a conclusion.

This has often been done: at first sight nothing seems simpler. If we assume that the *Gospels* give us an essentially complete account of a formal trial before the Sanhedrin of a prisoner charged with blasphemy, and if likewise we assume that all the details of procedure laid down in the *Tract Sanhedrin* were in operation in the first half of the first century, only one conclusion is open to us: our Lord's trial was no trial at all, and his condemnation was illegal. Arguing from these premises it is perfectly fair to sum up, as does one of the best of the investigators along these lines, in such terms as —

> "Our conclusion on the question of Hebrew law must be this: that a process begun, continued,

[1] See the bibliography in Husband's *Prosecution of Jesus*.

> and apparently finished, in the course of one night; commencing with witnesses against the accused who were sought for by the judges, but whose evidence was not sustained even by them; continued by interrogatories which Hebrew law does not sanction, and ending with a demand for confession which its doctors expressly forbid; all followed, twenty-four hours too soon, by a sentence which described a claim to be the Fulfiller of the hopes of Israel as blasphemy—that such a process had neither the form nor the fairness of a judicial trial."[1]

Unfortunately the matter does not lend itself to such a straightforward comparative method: the assumptions are too precarious to admit of our reaching a valid result by their means. Neither of our documents is such that we can use it as a standard by which to judge the other. We may assume the historical truth of the details given in the *Gospels*, but it is too much to assume that we are given all the details; on the other hand, though the Hebrew sources may give us a general conception of the conduct of a trial before the Sanhedrin, the details they give us are such that we cannot be assured that what Jewish scholars thought to be correct at the end of the second century was necessarily the normal practice at the beginning of the first. An important point to remember in this connexion is, that while the *Tract Sanhedrin*

[1] A. Taylor Innes, *The Trial of Jesus Christ: a legal monograph*, pp. 58 ff.

embodies the views of the *Pharisaic* Doctors of the Law regarding criminal procedure, the earlier Sanhedrin down to 70 A.D. was largely under the control of the *Sadducean* priesthood, whose views did not harmonize with those of the Pharisees (see Box, art. "Who were the Sadducees?" *Expositor*, January 1918).

In estimating the value to be attached to the contents of the tract it should be remembered that apart from the details given us in this early rabbinical literature our knowledge of the Sanhedrin is singularly thin. The external evidence for testing the traditions here set forth, is, for all practical purposes, confined to the New Testament and the writings of Josephus.[1] Both these sources are, as written documents, earlier than the rabbinic, but it should not be forgotten that the former is available for a period of hardly more than thirty years, *circa* 27–60 A.D.; while the latter, though covering a wider period, roughly 200 B.C. to 70 A.D., can be described as neither detailed nor direct. On the basis of such evidence alone it would be unwise to dogmatize about the nature of an institution which by the time that the *Tract Sanhedrin* was reduced to writing, had had an existence, necessarily far from uniform, for some five hundred years.[2]

[1] A few points may be gleaned from the apocryphal books, and some hazardous conclusions, little removed from guess-work, may be derived from a study of the courts of law which the Chronicler describes; see 2 Chron. xix. 5-11; 1 Macc. vii. 33; xi. 23; xii. 6, 35; xiii. 36; xiv. 28; 2 Macc. i. 10; iv. 44; Judith iv. 8; xi. 14; xv. 8.

[2] It is not possible in such a brief introduction as the present to deal with the origin and development of the Sanhedrin; most of what is known, adduced, or guessed, may be found in Schürer,

On the other hand, it has to be admitted that the *Tract Sanhedrin* possesses many deficiencies as a source of information about the judicial procedure in the first century.

To speak of the details which it gives us as "historical" or "unhistorical" is to assume the existence of limitations which the compilers of these traditions never recognized; for they neither attempt to give what we should describe as "a historical survey," nor do they aim at presenting a picture of the Sanhedrin as it appeared at any prescribed time. As a reaction against the humiliating circumstances following their loss of independence, the Jews tended to idealize their past history and institutions; and their object here is not to describe their present conditions, but to amass whatever details they can, concerning the former nature of the Sanhedrin. Their mentality was such that they looked upon their institutions not as progressive, but as inferior survivals of the past. Therefore they find no interest in depicting the present or even the immediate past; they seek rather to gather such material—no matter how far

History of the Jewish People, II. i. 163. ff.; Bacher on "Sanhedrin," in Hastings' *Dictionary of the Bible*; and Thomson on "Sanhedrin," in Hastings' *Dictionary of Christ and the Gospels*; there, also, will be found discussed the problems arising out of the differences which are so conspicuous between the Greek and Jewish sources. For the theory which seeks to solve these difficulties by the hypothesis that there were *two* Sanhedrins existing at the same time, one dealing exclusively with secular matters (that described in N. T. and Josephus), and the other with the religious side of the Jewish life (with which alone the Jewish sources are alleged to concern themselves), see Büchler, *Das Synhedrium in Jerusalem*, Vienna, 1902; Lauterbach on "Sanhedrin," in *Jewish Encyclopedia*; and, opposing the theory, G. A. Smith, *Jerusalem*, vol. i. pp. 421 ff.

it may be removed from recent fact—as shall portray their subject in its more perfect shape, nearer to the ideal which in their opinion it one time approached. The practice of the Sanhedrin of their own time must of necessity have formed the starting-point of their researches; but they overlaid this with whatever other matter they could discover relating to it, either direct from tradition or from what they could, by their peculiar logical processes, infer from Scripture. The only canon of truth which they recognized was, that both current usage and tradition should conform, or be explainable[1] as conforming, to the Mosaic legislation.

What New Testament students hope for, and consequently tend to expect, in such a production as the present tract, is a picture of that highest legislative court of the Jews as it existed in the early half of the first century. But such an account is given to us only in a very modified form. Much of what it tells us of the Sanhedrin must, it is impossible to doubt, have held good for that particular time, but the picture, as a whole, suffers from a double distortion.

I.—On the one hand the account is largely influenced by facts and theories as they were known and believed at the end of the second century, when the compilers' personal knowledge of Jewish law-courts was confined to the groups of scholars who assembled, a Sanhedrin in name, at Jabne or Usha, but whose authority was scarcely

[1] For an extreme instance of this see *M.* i. 6 (*T.* iii. 7) on the Lesser Sanhedrin.

more than that with which the piety of their fellow Jews chose to invest them.[1] Their influence over the religious life of the Jews was admittedly great. They busied themselves with the interpretation of the Scriptures and preservation of their traditions; and it was through their labours that the *Mishnah*, a complete *corpus juris* of Judaism, was made possible. But their functions were scarcely more than academic, and their legislation tended to wander farther from political actuality into the regions of abstract perfection. It is, for example, difficult to suppose that the picture given us of the procedure of the Sanhedrin is not coloured more highly than can ever have been the fact in practice, with what is known as the *middath r'ḥamim*, "the quality of mercy." One of the rabbinic canons was that their code must show "mercy in judgement" in the highest degree. Their judicial body was regarded as best fulfilling its functions when it sought to act as "counsel for the defence"; if there seemed to be no extenuating circumstances in the prisoner's favour, the judges were to do their utmost to find some. It was even illegal for the judges to be unanimous in passing an unfavourable verdict. A like attitude is apparent in the fact that a verdict of acquittal can be reached quickly, but one of conviction only as a result of most leisurely deliberation. The prisoner must be robbed of no chance which might in any way

[1] But see Origen, *Epistola ad Africanum*, 14, where it is alleged that the Presidents of these courts assumed to themselves powers of life and death. For possible recognition by the Romans, cf. Josephus, *Ant.* XIV. x. 17.

tell in his favour. This particular standpoint receives its strongest expression in *Makkoth* I. 10: "The Sanhedrin which condemns to death one man in seven years is accounted murderous. According to R. Eleazar b. Azaria, it would be a murderous court even if it condemned one man in seventy years. R. Tarphon and R. Akiba assert that if they had been in the Sanhedrin [*i. e.* when it possessed capital powers] no man would ever have been condemned to death by it."

II.—The other factor which makes for unreality is the rabbinic writers' desire to attain a theoretical completeness. This is usually perceptible and can easily be discounted. They saw in the Sanhedrin an institution which, they held, had existed from the time when Moses appointed the Seventy Elders, and had since exercised an authority little less than supreme. And so it comes about that the tract finds it necessary to discuss what were the relations of the Sanhedrin to kings and high-priests,[1] what part they can take in the court's deliberations and how far they are subject to its rulings. It even insists that the Sanhedrin shall have a veto in matters of foreign policy. The whole of the Mosaic legislation involving capital punishments, however temporary it may have been or however impracticable,[2] is tabulated and systematized, and the method of procedure fully discussed. The out-

[1] The tract never recognizes that the high-priest was the regular President of the Sanhedrin, as we are led to believe from the non-Hebrew sources. According to *T.* iv. 1 (which here contradicts the *Mishnah*, ii. 1), he may not even be a member of the court.

[2] That certain legislation was only of theoretical interest is recognized; see *T.* xiv. 1, xi. 6 a.

come is a penal code which one suspects to be at times nothing more than the laborious product of students with more knowledge of the minutiae of vocabulary [1] than recognition of practical needs, or even of prosaic possibility.

The result of all this is, that we are given a body of genuine historic tradition about the Sanhedrin, difficult to ascertain precisely, largely influenced by what the court *was* at the end of the second century, and by an ideal view of what it *might* have been when the Jewish state was at the height of its power.

Text and Selected Bibliography

The text of the *Mishnah* from which the following translation is made, is that of the Cambridge University Library Manuscript, Add. 470, 1, as given in the edition by W. H. Lowe: *The Mishnah on which the Palestinian Talmud Rests.* Cambridge, 1883 (referred to in the notes as "*C*"). The more important variants in the Bomberg text (the *editio princeps* of *Talmud Babli*, the basis of the *Mishnaioth* printed texts) are indicated in the notes, and where necessary *C* is emended on the basis of the *editio princeps* of the *Mishnah*, Naples 1492, (referred to as "*N*"). Occasional use is also made of readings in *Talmud Yerushalmi*, ed. Venice

[1] For the way in which the *gezera shawa* rule of interpretation (see p. 72, n. 6) was utilized to determine which death should be applied to criminals when Scripture does not enjoin the particular method, see *Jewish Encyclopedia*, art. "Capital Punishment." Should this rule fail to apply, the criminal is to die by the non-biblical penalty of strangulation. See. p. 95, n. 3.

1523 ("*P*"), the *Mishnāh Codex De Rossi*, no. 138, Parma ("*R*"), and Kauffmann's *MS.* of *Mishnah* in the Budapest Academy ("*K*").

The *Tosefta* translation is based on Zuckermandel's text, Passewalk and Treves, 1877–82.

Commentaries on the text of Sanhedrin :—

Krauss (Samuel) : *Thé Mishnah Treatise Sanhedrin, edited with an introduction, notes and glossary.* Leiden, 1909.

Gives the text of the 1492 Naples edition, with useful critical apparatus.

Strack (H. L.) : *Sanhedrin-Makkoth, die Mishnatraktate über Strafrecht und Gerichtsverfahren, nach Handschriften und alten Drucken herausgegeben, übersetzt und erläutert.* Leipzig, 1910.

Goldschmidt (Lazarus) : *Der Babylonische Talmud, herausgegeben nach der ersten Zensurfreien Bombergischen Ausgabe (Venedig* 1520–23) . . . *und wortgetreu übersetzt und mit kurzen Anmerkungen versehen.* Siebenter Band, Berlin, 1903.

Hölscher (Gustav) : *Die Mischna-tractate "Sanhedrin" und "Makkoth" ins Deutsche übersetzt . . . mit Anmerkungen versehen.* Tübingen, 1910.

English translations :—

Barclay (Joseph) : *The Talmud,* London, 1878 [pp. 176–203].

Contains translation of seventeen of the *Mishnah* tracts.

Rodkinson (M. L.) : *New edition of the Babylonian Talmud . . . translated into English.* Vol. 8. New York, 1902.

Contains translations of *Mishnah* and *Gemara.* Disfigured by occasional arbitrary omissions.

For the bearing of the tract on the trial of our Lord, see—

Husband (R. N.) : *The Prosecution of Jesus, its date, history and legality.* Oxford Press, 1916.

Innes (A. T.) : *The Trial of Jesus Christ : a legal monograph.* Edinburgh, 1899.

A discussion of the question whether the Jews, under the Romans, were empowered to inflict the death penalty is to be found in—

Liberty (Stephen) : *The Political Relations of Christ's Ministry*, Oxford, 1916.

Of less value is

Rosadi (Giovanni) : *Il Processo de Gesu.* Florence, 1904.

[English translation, London, 1905.]

SYNOPSIS OF CONTENTS

[*M.* = Mishnah; *T.* = Tosefta.]

PAGE

I. The Jurisdiction of the Various Courts: *M.* i. 1–2, 5; *T.* i. 1–4, 11 23

Cases which can be tried by three judges: *M.* i. 1–3; *T.* i. 1–ii. 14 (with excursus on "Arbitration" and the intercalation of the year) . 23

Cases which must be tried by the Lesser Sanhedrin: *M.* i. 4; *T.* iii. 1–3 36

Cases which must be tried by the Greater Sanhedrin: *M.* i. 5; *T.* iii. 4–6 (with excursus on the Second Tithe and Firstborn of Beasts) . 38

Concerning the number of members in the Greater and Lesser Sanhedrins: *M.* i. 6; *T.* iii. 7–11. . 42

The duties and restrictions relating to the high-priest: *M.* ii. 1; *T.* iv. 1. 46

The duties and restrictions relating to the king: *M.* ii. 2–5; *T.* iv. 2–11 (with excursus on Ezra's Copy of the Law) 48

II. Judicial Procedure: *M.* iii. 1–55; *T.* v. 1–ix. 4. . . 57

Those who are eligible and those who are ineligible as judges or witnesses: *M.* iii. 1–5; *T.* v. 1–5*a* 57

Method of legal procedure in non-capital cases: *M.* iii. 6–8; *T.* v. 5*b*–vii. 2*a* 62

Differences in legal procedure distinguishing capital from non-capital cases: *M.* iv. 1–2; *T.* vii. 2*b*–7 70

The arrangement of the Court, and the method adopted for adding to the number of judges: *M.* iv. 3–4; *T.* vii. 8–viii. 2 75

The method of admonishing witnesses in capital cases: *M.* iv. 5; *T.* viii. 3–9 78

The method of legal procedure in capital cases: *M.* v. 1–5; *T.* ix. 1–4. 82

III. The Four Capital Punishments: *M.* vi. 1–7, 3; *T.* ix. 5–11 87
The carrying out of the sentence of stoning; *M.* vi. 1–4*a*; *T.* ix. 5–6*a* 87
The hanging and ultimate disposal of the corpse: *M.* vi. 4*b*–6; *T.* ix. 6*b*–9. 90
The other forms of death penalty: burning, decapitation, and strangulation: *M.* vii. 1–3; *T.* ix. 10–11. 93

IV. Those who are Liable to Capital Punishment: *M.* vii. 4–ix. 6, and *M.* x. 4–xi. 6; *T.* x. 1–xii. 8, and *T.* xiv. 1–11 95
A.—Those who are punishable by stoning: *M.* vii. 4–viii. 5; *T.* x. 1–xii. 8 95
1–6. Those guilty of incestuous and unnatural crimes: *M.* 4*b*; *T.* x. 1–2 96
7. The blasphemer: *M.* vii. 5 98
8. The idolater: *M.* vii. 6; *T.* x. 3 . . . 98
9. He who offers his children to Moloch: *M.* vii. 7*a*; *T.* x. 4–5 100
10–11. The Ba'al 'Ob, and the Yidd'oni: *M.* 7*b*; *T.* x. 6–7 101
12. The Sabbath-breaker: *M.* vii. 8*a* . . . 101
13. He who curses his parents: *M.* vii. 8*b* . 102
14. The seducer of a betrothed damsel: *M.* vii. 9; *T.* x. 8–10 102
15. The beguiler to idolatry: *M.* vii. 10*a*; *T.* x. 11–xi. 5*a* 103
16. He who leads a town astray: *M.* vii. 10*b*; *T.* xi. 5*b* 106
17. The sorcerer: *M.* vii. 11; *T.* xi. 5*c* . . 106
18. The stubborn and rebellious son: *M.* viii. 1–5; *T.* xi, 6–8 107
The housebreaker: *M.* viii. 6; *T.* xi. 9 . . . 112
Those who may be killed untried: *M.* viii. 7; *T.* xi. 10–11 113
B.—Those who are punishable by burning: *M.* ix. 1*a*; *T.* xii. 1–2 114
C.—Those who are punishable by decapitation: *M.* ix. 1*b*–6; *T.* xii. 3–8; and *M.* x. 4–6; *T.* xiv. 1–11 115
1. The murderer: *M.* xix. 1*c*–5; *T.* xii. 3–8 . 115
(Irregular justice: *M.* ix. 6) . . . 119

An interpolated section: Those who have no share in the world to come: M. x. 1–3; *T.* xii. 9–xiii. 12) . . 120
2. The members of a beguiled city: *M.* x. 4–6; *T.* xiv. 1–11 129

D.—Those who are punishable by strangulation: *M.* xi. 1–6; *T.* xiv. 12–17. . . . 136
1. He who strikes his father or mother: *M.* xi. 1*c* 136
2. He who steals a soul from Israel: *M.* xi. 1*c* . 137
3. The elder who defies the Court: *M.* xi. 2–4; *T.* xiv. 12 137
4. The false prophet: *M.* xi. 5; *T.* xiv. 13–16 139
5. He who prophesies in the name of a false god: *M.* xi. 6*a* 141
6. The adulterer: *M.* xi. 6*b* 141
7. The false witnesses against a priest's daughter: *M.* xi. 6*c*; *T.* xiv. 17. 141

TRACTATE SANHEDRIN

MISHNAH AND *TOSEFTA*

I.—THE JURISDICTION OF THE VARIOUS COURTS

Cases which can be tried by Three Judges.

I. 1. NON-CAPITAL[1] cases are to be tried by a **M.** tribunal of three judges:—cases of robbery and personal violence,[2] by three; cases involving whole or half damages,[3] repaying double,[4] or repaying fourfold or fivefold,[5] and cases of forcing,[6] seduction[7] and libel,[8] by three,—so R. Meir[9]; but the

[1] Lit. "cases of money, or property"; while "capital-cases" is lit. "cases of souls, or lives." The distinction is not between charges relating to damage to property and offences against persons, but between charges which, if the prisoner be found guilty, can be atoned for by the forfeiture of money, and those which can be atoned for only by the forfeiture of the prisoner's own life.

[2] Lev. 6. 4 ff.; 24. 19.

[3] Exod. 21. 35.

[4] Exod. 22. 4.

[5] Exod. 22. 1.

[6] Deut. 22. 29.

[7] Exod. 22. 16–17.

[8] The specific instance given in Deut. 22. 13 ff. is meant. If the charge is not justified the accuser is fined a hundred pieces of silver; but if the woman is guilty she is to be stoned. Therefore it is a capital charge, and as such must be tried before twenty-three judges.

[9] R. Meir, flourished 130–160 A.D., was R. Akiba's most famous disciple, and one of the greatest figures in Jewish literature. He carried on Akiba's labours in the codifying of the Mishnah, and his material provided the basis for the final form which it took under the hands of Rabbi Jehuda ha-Nasi. He was *Hakam*, "advising

M. majority[1] hold that a libel case should be tried by a court of twenty-three judges, since it is a capital charge.

2. Cases involving scourging,[2] by three[3]; the decision as to the intercalation of the month[4] and the intercalation of the year,[5] by three,—so R. Meir; but according to R. Shimeon,[6] the son of R. Gamaliel, the case is begun by three, discussed by five, and concluded by seven. But if it be concluded by three only, the intercalation holds good.

3. The "Laying on of the elders' hands,"[7] and the "Breaking of the heifer's neck"[8] are to be

---

sage" or "speaker" (see note on *T.* vii. 7) to the Sanhedrin at Usha under Rabban Shimeon b. Gamaliel II. So great was his reputation that he refused to submit to the ceremonial introduced by Rabban Shimeon to parade the dignity of the office of Patriarch (the ceremony was that described in *T.* vii. 8), and retired to Asia Minor.

[1] Lit. "the wise." Anonymous opinions represent those of the teachers in general, and after the demurrer of a single teacher they are normally introduced by the formula, "the words of the wise" or "the sages say."

[2] Deut. 25. 1–3. Cf. Deut. 22. 13 ff.

[3] Bomberg text adds: "*According to R. Ishmael, by twenty-three.*" For the argument which is adduced in favour of this number, see *T.* vii. 4.

[4] The normal expression (see *T.* ii. 1) is "hallowing of the month," *i. e.* the official recognition of the appearance of the New Moon, to ensure the exact time of observance of the important festivals, whose date is fixed from the time of the New Moon.

[5] The Jewish months are still lunar months, twelve of which only total 354 days, 8 hours, or nearly 11 days short of the solar year. This necessitates the insertion of another month at least every third year. This intercalary month of 30 days—called Adar Sheni, or Ve-Adar, "Second Adar," is inserted between Adar and Nisan.

[6] Son and successor of Gamaliel II to the Patriarchate of the Jews, and father of Rabbi Jehuda ha-Nasi.

[7] Lev. 4. 15. [8] Deut. 21. 1–9.

determined by three according to R. Shimeon,[1] **M.** but R. Jehuda[2] says five; decisions as to "*Ḥaliṣa*"[3] and "Refusal,"[4] by three; "Fourth year plants"[5] and "Second tithe"[6] of unknown value, by three; cases dealing with consecrated articles,[7] by three; valuations, if movable property, by three—according to R. Jehuda one of them should be a priest: if real estate, by nine and a priest: if a man, by the same number.

T. I. 1. Non-capital cases are to be tried by three judges; but according to Rabbi[8] they are to be

[1] The usual form of reference to R. Shimeon ben Jochai. He was one of the five most famous disciples of R. Akiba, and became a member of the Sanhedrin at Usha. R. Jehuda ha-Nasi himself was one of his pupils at the school which he set up at Meron (or Teko'a.) In his old age he carried out, with R. Eleazar b. Jose, a successful embassy to Rome on behalf of the Jews.

[2] R. Jehuda, (ben Il'ai) was another famous disciple of R. Akiba, and a follower of his exegetical methods. He is supposed to be largely responsible for *Sifra*, the commentary on Leviticus.

[3] Lit. "the drawing off" *scil.* of the shoe. See Deut. 25. 5–10.

[4] If a woman during her minority have been given in marriage she may, on the attainment of her majority, refuse her consent to the union if her father was not among those who agreed to the contract. See *M. Yeb.* 13. 1.

[5] Lev. 19. 23–25.

[6] Deut. 14. 22–26. Rabbinical interpretation recognized three tithes: the First or Levitic tithe, Num. 18. 21; the Second tithe, which the owner must consume in Jerusalem, Deut. 14. 22 ff.; and Tithe for the Poor, Deut. 14. 28 ff.; 26. 12. The Second tithe need not be conveyed to Jerusalem in kind, but might be converted into money (and reconverted at Jerusalem), Deut. 22. 26. A "Board of assessment" is here provided by the *Mishnah* for valuing the Second tithe before it is converted into money.

[7] This and the rest of the paragraph refer to Lev. 27.

[8] The customary abbreviation employed to allude to R. Jehuda ha-Nasi. He was grandson of Rabban Gamaliel II, and ultimately succeeded him as *Nasi*, "Prince," of the Jewish community, and seems to have been not the least distinguished of a very distinguished family. His chief title to fame rests on his compiling an authoritative form out of the several *Mishnah* collections which

T. tried by five, so that the decision may be supported by three. Arbitration may be effected by three,—so R. Meir; but the majority hold that one suffices. The *Semika*[1] is to be decided by three, and the "Laying on of the elders' hands" by three; but R. Jehuda holds that it is by five.

2. Movable vowed property, "Fourth year plants" and "Second tithe" of unknown value are to be redeemed according to the verdict of three experienced dealers in the particular commodity, and not according to that of three who are not experienced.

An animal with an obvious blemish[2] is to be slaughtered according to the verdict of any three members of the synagogue,—so R. Meir; but R. Jose[3] says: "Even though it be deformed in the leg and blind in the eye it can be slaughtered only according to the verdict of an expert." The majority hold that one who commits libel when the charge involves a non-capital case is to be judged by three; but if a capital case, by twenty-three.

As three judges are required for legal judgment, so three are necessary for arbitration. But when a case has been decided by legal judgment, arbitration is not permitted. R. Eliezer,[4] the son of R. Jose the Galilaean, says: Every one who arbitrates (after judgment has been passed) is a sinner and he who praises such an arbitrator blasphemes The Place.[5]

---

were then in existence. Our present *Mishnah* is accepted as being in all essentials identical with that drawn up by Rabbi.

[1] Ordination to the position of judge or teacher.

[2] Deut. 15. 21.

[3] R. Jose ben Halafta, *c.* 150–180 A.D., was another of R. Akiba's more famous disciples, as well as a supporter of his master's methods of interpretation.

[4] Another pupil of R. Akiba. He had a great reputation as a Haggadist, and the present passage is an instance of his use of the method in the stricter sphere of *Halaka*. He laid down a list of thirty-two rules, by which the interpretation of the Bible should be governed.

[5] A frequent circumlocution for God, emphasizing the idea of His unique existence and omnipresence.

Therefore it is said: HE WHO PRAISES THE T.
ARBITRATOR (Heb. *bosea*) BLASPHEMES THE LORD.[1] Let rather the legal judgment pierce the very mountain.[2] For so used Moses to say: "Let legal judgment pierce the very mountain;" whereas Aaron was accustomed to make peace between man and man, as it is written: HE WALKED WITH ME IN PEACE AND UPRIGHTNESS.[3] R. Eleazar,[4] the son of Jacob, says: What does Scripture mean by "*BOṢEA BEREK*[5] BLASPHEMES THE LORD"? They told a parable: To what can this be compared? It is like to a man who had stolen a *seâ*[6] of wheat; he ground it and baked it and set apart the *Ḥalla*[7] and fed his children. When such a one recites the Blessing, he does not bless, but he blasphemes. Hence it is written: WHEN THE ROBBER[8] BLESSES HE BLASPHEMES THE LORD.

3. Another explanation: HE WHO PRAISES THE *BOṢEA*[9] BLASPHEMES THE LORD.

Boṣea refers to the brethren of Joseph who said:[10] WHAT *BEṢA* HAVE WE IF WE SLAY OUR BROTHER?

[1] Ps. 10. 3. Prayer Book Version: "And speaketh good of the *covetous*, whom God abhorreth." The root meaning of the word is "to cut;" used metaphorically in O. T. "to get unjust gain," hence "to act in a covetous manner." In Mishnaic Hebrew = "Cut, split the difference," and so "arbitrate."

[2] That is, there must be no amendments once a decision has been given by a legally constituted court.

[3] Mal. 2. 6.

[4] A younger disciple of R. Akiba. He survived the Hadrianic persecutions, and became a member of the Sanhedrin which was afterwards set up at Usha.

[5] R. Eleazar interprets the words as meaning: "If a robber has blessed, he," etc.

[6] The third of an Ephah, or equivalent in modern measure to one and a half pecks.

[7] The small cake set apart in fulfilment of the injunction in Num. 15. 20–21.

[8] Adopting the meaning current in O. T.; cf. Pr. 1. 19; 15. 27; Jer. 6. 13; 8. 10; Hab. 2. 9.

[9] This explanation turns on the meaning "one who gets illegal profit;" *beṣa* = gain wrongly acquired.

[10] Gen. 37. 26.

T. R. Jehoshua,[1] the son of Karha, said: There is a command that we arbitrate, for it is written:[2] EXECUTE THE JUDGMENT OF TRUTH AND PEACE IN YOUR GATES. But is it not the case that wherever there is true judgment there is no peace? And where there is peace there is no true judgment? Then what is the true judgment wherein is peace? This can only be arbitration. And it is written of David:[3] AND DAVID ACTED WITH JUDGMENT AND CHARITY[4] TO ALL HIS PEOPLE. And is it not the case that wherever there is judgment there is no charity? And where there is charity there is no judgment? Then what is the judgment wherein is charity? This can only be arbitration.

4. When judgment has been given in a case, justifying him who was in the right, and condemning him who was in the wrong, if it be a poor man who has been condemned the judge sends him away and gives him support out of his own pocket. He is thus found acting with judgment to the one and with charity to the other.

5. Rabbi says: When judgment has been given in a case, justifying him who was in the right, and condemning him who was in the wrong, charity is dealt to him who was in the wrong since what was stolen is taken from him; and judgment is meted out to him who was in the right, since what was his is restored to him.

6. R. Shimeon,[5] the son of Menasia, says: There are certain times when a man may act as arbitrator

[1] *c.* 150 A.D. He is said to have been the son of R. Akiba, though this is questioned.

[2] Zech. 8. 16.

[3] 2 Sam. 8. 15.

[4] Heb. *Ṣedāḳā*, R.V. "Justice"; but here given a meaning which it later acquired.

[5] An elder contemporary of R. Jehuda ha-Nasi. One of his sayings is (*Tos. Yadaim* II. 14): "Canticles was inspired by the Holy Ghost, while Ecclesiastes expresses merely the wisdom of Solomon."

and other times when he may not. If two men T. were to come before another for judgment, and he, before he have heard their words, or even after he have heard their words, be unable to determine whom the legal verdict will favour, it is right that he should say to them: Go and arbitrate between yourselves. But if, when he has heard their words, he knows whom the legal verdict will favour, it is not right that he should tell them to go and arbitrate; for it is written:[1] THE BEGINNING OF STRIFE IS AS WHEN ONE LETTETH OUT WATER; THEREFORE BEFORE THE MATTER IS LAID BARE[2] LEAVE OFF CONTENTION. Before the verdict is apparent thou art free to abandon the case; afterwards thou art not free.

7. R. Jehuda,[3] the son of Lakish, said: If two men, a strong one and a weak one, were to come before another for judgment, and he, before he have heard their words, or even after he have heard them, be unable to determine whom the legal verdict will favour, it is right that he should say to them: I cannot allow myself to be implicated in your case, lest the weak be found guilty and the strong persecute him. But if, when he have heard their words, he knows whom the legal verdict will favour, it is not right that he should say: I cannot allow myself to be implicated in your case. For it is written:[4] YE SHALL NOT BE AFRAID OF THE FACE OF MAN, FOR THE JUDGMENT IS GOD'S.

8. Said R. Jehoshua, the son of Karha: Whence do we know that if a man were sitting before the judge, and knew that a poor man (though condemned) was innocent and a rich man (though acquitted) was guilty, he should not keep silence?

[1] Prov. 17. 14.
[2] So Targum. R. V. "before there be quarrelling."
[3] A teacher who lived at the beginning of the second century. Little is known of him, and his name only appears in *Tosefta* and *Mekilta*.
[4] Deut. 1. 17.

T. Scripture says: *LO TAGURU*[1] BECAUSE OF MAN. That is to say: Ye shall not *store up your words* because of man.

9. The judges should know whom they are judging and before whom they are judging and who He is who is judging with them. And the witnesses should know against whom they are testifying and with whom they are testifying and who He is who bears testimony with them, as it is written:[2] THEN BOTH THE MEN BETWEEN WHOM THE CONTROVERSY IS, SHALL STAND BEFORE THE LORD. And also it is written:[3] GOD STANDS IN THE CONGREGATION OF GOD, AND IN THE MIDST OF *JUDGES*[4] HE JUDGES. So again it is said concerning Jehoshaphat:[5] CONSIDER WHAT YE DO, FOR YE JUDGE NOT FOR MAN BUT FOR GOD. And lest a judge should say, "Why do I take this trouble?"—has it not been said,[5] HE IS WITH YOU IN THE MATTER OF JUDGMENT? Thy concern is only with what thine eyes see.

R. Shimeon, the son of Gamaliel, says: As three judges are required for legal judgment, so three judges are required for arbitration. Greater is the force of arbitration than that of legal judgment; for if two judges have given a legal decision the parties are not thereby bound,[6] whereas if arbitration has been effected by two judges the parties are bound.

II. 1. The hallowing of the month and the intercalation of the year are determined by three judges,—so R. Meir; but the majority hold that in the intercalation of the year the case is begun by three, discussed by five, and concluded by seven. If one is in favour of considering the necessity of intercala-

[1] A play of words on *lo taguru*, "thou shalt not fear," and *lo te'egoru*, from a root meaning "gather, collect."
[2] Deut. 19. 17.
[3] Ps. 82. 1.
[4] Lit. "gods." Cf. Ex. 21. 6, R. V. and R. V. mg.
[5] 2 Ch. 19. 6.
[6] See *M.* iii. 6 *b*, from which it is to be inferred that the judgment decreed by two judges only is not valid.

tion and two are not, they proceed no further; the single one remains in a minority. If two are in favour of considering it and one not, two more are added, and the five discuss the matter. If two say that it is necessary to intercalate and three not, they proceed no further; the two remain in a minority. If three say that it is necessary and two not, two more are added and the matter is decided by the seven; for the body that effects the decision cannot be less than seven. If a father be in favour of intercalating and his son not, the two are reckoned as two; if both father and son are in favour of intercalating or of not intercalating, the two count as one. Said R. Jose: Once, I and Eleazar, my son, went up to intercalate the year, and I said to him, My son, you and I will only count as one. T.

2. There are three signs which make it evident that the year should be intercalated: the premature state of the corn-crops, the undeveloped state of the tree products, and the lateness of the spring equinox.[1] On the basis of any two of these they may intercalate, but not on one only; though if they were to intercalate on the basis of one only the intercalation would hold good If the premature state of the corn-crops be one of the signs, they rejoice.[2] R. Shimeon the son of Gamaliel says: Also if it be the lateness of the spring equinox.

3. On the basis of evidence derived from three countries used they to intercalate the year: Judaea, the land beyond Jordan, and Galilee. They may intercalate on the basis of two of these, but not of one only; though in this latter case the intercalation would hold good. And if Judaea were one of the two they rejoiced, because it was from there that the offering of the firstfruits came.

4. The years could not be intercalated owing to

[1] March 21st, according to our reckoning.

[2] Because the year is intercalated and a longer period granted for the ripening of the crops.

T. the fact that the season of the kids or lambs or pigeons had not yet arrived; such could only be regarded as a subsidiary reason for intercalating. But if the intercalation has been made on the basis of this evidence, the intercalation holds good. 5. R. Jannai[1] said in the name of Rabban Shimeon, the son of Gamaliel: He used to say: "In that the pigeons are still tender and the spring lambs thin, it is fitting in my opinion to add thirty days to this year."

6. It happened once with Rabban Gamaliel[2] and the elders, that they were sitting on the steps in the Temple Mount, with Johanan the scribe on the one side in front of them. They said to him: Write to our brethren of Upper and Lower Galilee, "May your peace be increased! We make known to you that the time of removal of produce is arrived, for paying tithes from the olive vats." And to our brethren of the upper and lower regions of the South, "May your peace be increased! We make known to you that the time of removal of produce is arrived, for paying tithes from the sheaves of corn." And to our brethren, the exiles of Babylon, and those in exile in Media, and all the other Israelites in exile, "May your peace be increased! We make known to you that the pigeons are still tender and the lambs thin, and that the season of spring is not yet come. It seems fitting to me and to my colleagues that we add to this year thirty days."

7. The year is not to be intercalated unless the spring equinox is still distant the greater part of a month. How much is the greater part of a month?

[1] *c.* 200 A.D. One of the first generation of the *Amoraim*, the scholars who, from the commencement of the third century, began to comment on the text of the *Mishnah*.

[2] Rabban Gamaliel I, the Gamaliel of Acts 5. 34. Though he is here, according to the tannaitic tradition, holding a position not less than that held by Rabban Gamaliel II, or R. Jehuda ha-Nasi, the New Testament sees in him no more than "a Pharisee . . . a doctor of the law, had in honour of the people."

Sixteen days. R. Jehuda says: Two thirds of a month, twenty days. R. Jose says: Account is taken of the year and if, before Passover, there still lack sixteen days of the equinox, they intercalate another month. They may not make the intercalation before the Feast of Tabernacles in the same circumstances;[1] but R. Shimeon holds that they may. They may not make an intercalation before the New Year Feast, and if they do it is not valid. But when the need arises they intercalate immediately after the New Year. And even then they can only intercalate Adar.[2] T.

8. They may not intercalate less or more than a month, and if they do it is not valid. They may not intercalate for a year in advance, and if they do it is not valid. And they may not intercalate successive years. R. Shimeon says: They may intercalate successive years; for it happened with R. Akiba[3] that when he was shut up in prison, he

[1] That is, they may not fix the Feast of Tabernacles (15th–21st of Tishri; Sept.–Oct.) on the basis of the autumn equinox (our Sept. 22).

[2] *Adar* corresponds nearly to February and March. The New Year, *Rosh ha-Shana*, commences with the month *Tishri*, (nearly = our September). For the Jewish Calendar see Oesterley and Box: *Religion and Worship of the Synagogue*, pp. 318 ff.

[3] R. Akiba was perhaps the greatest figure in Jewish literature during the early part of the second century. His teachers were R. Jehoshua b. Hanania and R. Eliezer b. Hyrcanus; while among his pupils were numbered such men as R. Meir, R. Jose b. Halafta and R. Shimeon b. Jochai. He was closely connected with the revolt of Bar Kokba, and met his death at the hands of the Romans. He is chiefly responsible for the final form which the canon of the Old Testament has taken, and it was he who began the process of collecting the mass of oral tradition which was continued by R. Meir and completed by R. Jehuda ha-Nasi. He was also the initiator of a type of exegesis which carried the theory of verbal inspiration to its extreme conclusions: not only every sentence, but every word, every particle, every letter, and even every peculiar form of a letter was possessed of a special divine significance, and from every such detail an endless series of conclusions might be derived, far removed from the mere literal meaning conveyed by the verse.

T. intercalated three years in succession. It was replied: That forms no proof, because it is for the court alone to sit and calculate each year at its proper time.

9. They may not intercalate a Sabbatic year, nor the year that follows. In such cases it is customary to intercalate the year preceding the Sabbatic year.

They may not intercalate a year when there is a famine. R. Meir says: It is written, AND THERE CAME A MAN FROM BAAL-SHALISHA AND BROUGHT THE MAN OF GOD BREAD OF THE FIRSTFRUITS, TWENTY LOAVES OF BARLEY, AND FRESH EARS OF CORN IN HIS SACK,[1] etc. But is it not true that there is no place where the produce is ready sooner than at Baal-Shalisha? And even so, he only offered as firstfruits that species which he brought to the man of God. Perhaps he brought it before the time of offering the sheaf? Scripture says: AND HE SAID, GIVE IT TO THE PEOPLE, THAT THEY MAY EAT[2]—showing that he only brought it after that it was in the sheaf. And was not that year fitted to be intercalated?[3] And why did not Elisha intercalate it? Because it was a year of famine, and all the people were running to the threshing floors.

10. They may not intercalate a year when there is impurity. (But) it happened with Hezekiah the king that he did intercalate a year when there was impurity, as it is written: FOR A MULTITUDE OF THE PEOPLE, EVEN THE MEN OF EPHRAIM AND MANASSEH, ISSACHAR AND ZEBULUN, HAD NOT CLEANSED THEMSELVES, YET THEY DID EAT THE PASSOVER OTHERWISE THAN IT IS WRITTEN. FOR HEZEKIAH HAD PRAYED FOR THEM SAYING, THE LORD PARDON EVERY ONE,[4] etc. 11. (Therefore) R. Jehuda says: They may intercalate a year when there is impurity. R. Shimeon says: If they do

[1] 2 Kings 4. 42. [2] 2 Kings 4. 43.
[3] Because, apparently, of the lateness of the corn-crops.
[4] 2 Chron. 30. 18.

intercalate such a year the intercalation is valid; (and Hezekiah prayed for mercy[1]) because he had intercalated Nisan, whereas you may intercalate Adar only. R. Shimeon,[2] the son of Jehuda, said in the name of R. Shimeon: Also because he caused the congregation to celebrate a second Passover.[3] T.

12. They may not intercalate a year except when it is necessary; but they may intercalate because of real cases of need,[4] because of ovens[5] and because of the exiles[6] who have left their homes. They may not intercalate the year because of cold, or of snows, or for the sake of any exiles who have not gone forth from their homes. All these are considered as subsidiary reasons; yet if the intercalation has been made on the basis of these, the intercalation holds good.

13. They may not intercalate except in Judaea, but if they do so elsewhere the intercalation holds good. Hanania[7] of Ono testified before Rabban Gamaliel that they intercalated the year in Judaea only, though if they intercalated it in Galilee it was valid.[8]

[1] This phrase does not occur in *T.*; but it occurs in the parallel passage in B. 12*a*, and is necessary in view of the two following opinions.

[2] R. Shimeon b. Jehuda (of Kefar Akkos or Ikos) is seldom referred to otherwise than as handing down the dicta of Shimeon b. Jochai, whose younger contemporary he probably was.

[3] Numb. 9. 10 ff.

[4] *B.* 11*a* reads "paths"—*i.e.* when they are impassable for those coming from a distance to celebrate the Passover at Jerusalem—and also adds "bridges."

[5] That is, the earth ovens (necessary for roasting the Passover lamb), which had not yet become dry after the winter rains. For the form of the oven, *tannur*, see Hastings' *Dictionary of the Bible*, art. "Oven."

[6] Jews from a distant part of the Diaspora, who have already set out on their way to Jerusalem for the Feast.

[7] He was, like most of his generation, a pupil of R. Akiba. He is chiefly remembered by the feat he accomplished of obtaining a ruling from Akiba on some disputed point, although his master was at the time in prison awaiting the death penalty.

[8] *B.* 11*b* reporting the same tradition reads "not valid."

T. They can intercalate the year any time during the First Adar. To this it was replied: It may only be intercalated before the date of the Feast of Purim.[1] But R. Jehoshua[2] and R. Papias came and testified that it is legitimate to intercalate throughout the whole of Adar.

Rabban Shimeon, the son of Gamaliel, and R. Eleazar,[3] the son of Zadok, said: They may not intercalate the year nor decide on the needs of the congregation except by arrangement, in order that the wishes of the congregation may be consulted. 14. They may not intercalate the year by night, and if they do so it is not valid. Nor may they carry out the hallowing of the month by night; and if they do so it is not valid.

A king cannot sit in the Sanhedrin, and neither a king nor a high-priest can take part in the debate on the intercalation of the year.

Cases which must be tried by the Lesser Sanhedrin.

M. I. 4. Capital cases are to be tried by twenty-three judges:—The two parties in an unnatural crime, by twenty-three, as it is written:[4] AND

[1] Because in an intercalary year Purim is celebrated not in First, but in Second, Adar.

[2] R. Jehoshua ben Hanania, *c.* 80–130 A.D., was one of the most prominent teachers of his day. He was a pupil of Jochanan b. Zakkai, and sat in the Jabne Sanhedrin first under his master, and later under Gamaliel II. He is supposed to have had a strong restraining influence over the would-be revolters among the Jews, and not till after his death did they finally break out under Bar Kokba. Like R. Ishmael b. Shamua, *q. v.*, he favoured the plain meaning of Scripture, and, on this account, is often represented as in opposition to R. Akiba.

[3] R. Eleazar (Eliezer) b. Zadok is represented in the rabbinical writings as a witness of the sufferings which befell the Jews after the fall of Jerusalem. He later became a member of the Sanhedrin at Jabne under Gamaliel II.

[4] Lev. 20. 16.

THOU SHALT SLAY THE WOMAN AND THE BEAST, **M.** also:[1] AND THE BEAST YE SHALL SLAY; the ox subject to the penalty of stoning,[2] by twenty-three, as it is written:[3] THE OX SHALL BE STONED AND ITS MASTER ALSO SHALL BE PUT TO DEATH,—master and ox suffer the like death; the lion,[4] the bear, the leopard, the panther and the serpent,[5]—their death is to be determined by twenty-three. R. Eleazar[6] holds that it would be right for any one to put them to death at once (without trial), but R. Akiba maintains that their death is to be determined by twenty-three judges.

T. III. 1. If an ox have caused death—and it is all one whether it be an ox or any other beast or living creature or bird that has caused death—its death is at the hands of twenty-three judges. R. Eleazar says: If an ox have caused death, its death is at the hands of twenty-three judges; but in the case of the rest of beasts and living creatures and birds, any one who kills them before trial acquires merit in the sight of Heaven. For it is written: AND THOU SHALT SLAY THE WOMAN AND THE BEAST; and again: THE BEAST YE SHALL SLAY.

2. The ox subject to the penalty of stoning is to be tried by twenty-three, for it is written: THE OX SHALL BE STONED AND ITS MASTER ALSO SHALL BE PUT TO DEATH; as is the death of the master, so is the death of the ox. As the death of the master is by stoning and being thrown down and at the hands of twenty-three judges, so the death

[1] Lev. 20. 15.
[2] Exod. 21. 28.
[3] Exod. 21. 29.
[4] Bomburg text adds: *the wolf*.
[5] If, as in the case of the ox, they have caused death.
[6] R. Eleazar ben Shamua; one of the important group of Rabbis, which includes R. Meir, R. Jose b. Halafta, R. Jehuda b. Il'ai, and R. Shimeon b. Jochai, all pupils of R. Akiba, and all figuring prominently in the shaping of the Mishnaic traditions.

T. of the ox is by stoning and being thrown down and at the hands of twenty-three judges.[1]

3. What is the difference between the trial of the ox and the trial of the man? In the case of the ox they may begin the case on one day and finish the same night; or begin and finish the case during the same day, no matter whether they are arriving at a verdict of innocent or guilty; they may decide by a majority of one whether for conviction or acquittal; all may argue in favour either of conviction or acquittal; and he who had urged acquittal may change and urge conviction.[2] But in the case of the man, all such procedure is illegal.

Cases which must be tried by the Greater Sanhedrin.

M. I. 5. A tribe, a false prophet, or a high-priest can only be tried by a court of seventy-one judges; an aggressive war can only be waged by the authority of a court of seventy-one; an addition to the City or to the Temple court-yards[3] can only be carried out by the authority of a court of seventy-one; the institution of separate tribal Sanhedrins can only be carried out by the authority of a court of seventy-one; and the condemnation of a beguiled city[4] can only be effected by the authority of a court of seventy-one. A frontier town should not be condemned,[5] nor three (at the same time), but only one or two.

[1] See for the details of the death by stoning *M.* vi. 4a.

[2] That is, all the rules of procedure customary in capital trials are in abeyance. Cf. *M.* v. 1 ff.

[3] Jerusalem and the Temple precincts.

[4] Deut. 13. 12 ff. A city, the majority of whose inhabitants turn idolaters. See *M.* x. 4 ff.

[5] Because of its national importance.

T. III. 4. They may not burn the red heifer[1] T. nor "break the heifer's neck"[2] nor pronounce sentence on an elder who defies the court,[3] nor decide in the case of "the ox of communal forgetfulness,"[4] nor may they appoint a king or high-priest, except by permission of a court of seventy-one judges.

How do they carry out an alteration (in the city and Temple courtyards)? The court issues forth and the two thank-offerings[5] behind them; of these offerings the inner one (nearest the members of the court) is eaten, and the other burnt. If anything of this is not completed, those who enter there are not thereby guilty.[6] The two thank-offerings, it has been taught,[7] means their bread offerings, and not their flesh offerings.

Abba Shaul[8] said: There were two valleys in Jerusalem, a lower one and an upper one. The lower one was consecrated by all these methods, but the upper was not consecrated until the members of the Exile returned to Jerusalem, when they were without king and without Urim and without Tummim.[9] In the lower valley whose consecration was complete, the common people used to eat the lesser holy things,[10] but not the

[1] Numb. 19. 2 ff.
[2] Deut. 21. 1–9.
[3] See *M.* 11. 2.
[4] Lev. 4. 13–14.
[5] Fuller details of the consecration ceremonies are given in *Mishnah Shebuoth* II. 1.
[6] If the consecration is not complete, those who enter cannot be said to trespass against holy things.
[7] For this, an interpretation based on Neh. 12. 31, see Sheb. 15 a.
[8] Is thought to have been a pupil of R. Akiba. He was a student of the old methods of Temple worship, and compiled a number of traditions which, differing from the accepted views, are sometimes quoted in the later collections. Cf. *T.* xii. 7, 8, 10.
[9] Which, together with prophet and Sanhedrin of Seventy-one members were necessary for valid consecration; see *Sheb.* 2. 1.
[10] For the list of these sacrifices of lesser holiness, see Zebachim 5. 6. The reading of *B. Sheb.* 16 *a*, is here adopted. Text of *T.* is confused. Zuck. reads "In the lower one . . . the common

T. Second tithe; whereas the more learned used to eat both. In the upper valley, whose consecration was not complete, the common people used to eat the lesser holy things, but not the Second tithe; whereas the more learned used to eat neither. Why had not the upper valley been consecrated? Because it was a weak part of Jerusalem, and could easily be captured.

5. R. Jose said three things in the name of three elders:—R. Akiba said: Could a man bring up the firstborn of beasts to Jerusalem from outside of the land of Israel? Scripture says: AND THOU SHALT EAT BEFORE THE LORD THY GOD THE TITHE OF THY CORN AND WINE AND OIL, AND THE FIRSTBORN OF BEASTS.[1] That is to say, from the place whence thou bringest the tithe of corn, thou bringest the firstborn of beasts; since thou canst not bring the tithe of corn from outside the land of Israel, neither canst thou bring the firstborn of beasts from outside the land of Israel.

Shimeon,[2] the son of Zoma said: May it not be that as the Law distinguishes between the most holy things and lesser holy things, so also it makes a distinction between the firstborn of beasts and the Second tithe? The customary argument (which proves that there is no difference between the two) is: Since they must both be brought to the temple, therefore they must both be consumed within its walls. (But the analogy is not complete), for the time of the eating of the firstborn of beasts is limited, hence the place of its eating is likewise limited; whereas the time of eating of the Second tithe is not limited. Therefore, since the time of its eating is not limited, neither can the place of its eating

---

people used to eat the lesser holy things, and the more learned the lesser holy things but not the Second tithe."

[1] Deut. 14. 23.

[2] R. Shimeon b. Zoma was one of the second generation of *Tannaim*, *c.* 120 A.D.

be limited (to within the temple walls). Scripture T.
says: AND THOU SHALT EAT BEFORE THE LORD THY GOD THE TITHE OF THY CORN AND WINE AND OIL, AND THE FIRSTBORN OF BEASTS. Therefore since the firstborn of beasts is only eaten within the temple walls, so the Second tithe is only eaten within the Temple walls.

6. R. Ishmael[1] says: Ought a man to bring up the Second tithe to Jerusalem at this time[2] and eat it? The customary argument would be: Since the firstborn of beasts must be brought to the temple and the Second tithe must be brought to the temple, therefore as the firstborn of beasts is only consumed within the temple, so the Second tithe can only be consumed within the temple. (But the analogy is not complete), for not as thou dost argue in the case of the firstborn of beasts—where there are sprinklings of blood and sacrificial portions laid on the altar—canst thou argue in the case of the Second tithe, where there are no sprinklings and no sacrificial portions. Should the case of the offering of firstfruits be brought forward as an argument, in which are no sprinklings and no sacrificial portions, and which may only be consumed within the temple, (it can be answered that the analogy here is not complete,) for not as thou dost argue in the case of the firstfruits which must be laid before the altar, canst thou argue in the case of the Second tithe which is not to be laid before the altar. (But such a distinction cannot be drawn, for) Scripture says: AND THOU SHALT EAT BEFORE THE LORD THY GOD THE TITHE OF THY CORN AND WINE AND

[1] R. Ishmael (ben Elisha), lived at the end of the first and the beginning of the second century. His chief title to fame rests on his "Thirteen Rules of Interpretation," based on the seven rules drawn up by Hillel (see *T.* vii. 11.). His method is less mechanical than that of R. Akiba, placing greater stress on the simple meaning of a passage rather than on verbal peculiarities. He held that "the Law is written in everyday language."

[2] When no temple exists in which to consume the offerings.

T. OIL, AND THE FIRSTBORN OF BEASTS. As the firstborn of beasts is only eaten within the temple, so the Second tithe can only be eaten within the temple.

Others say: May it not be with the firstborn, that after the first year has elapsed it becomes like unfit offerings, and so unfit to be brought up to Jerusalem? Scripture says: THOU SHALT EAT BEFORE THE LORD THY GOD THE TITHE OF THY CORN AND WINE AND OIL, AND THE FIRSTBORN, etc. If this were intended to teach that the firstborn can only be consumed within the temple, it would be superfluous, since it has already been said:[1] BEFORE THE LORD THY GOD THOU SHALT EAT IT YEAR BY YEAR. Or if it were intended to teach that the Second tithe can only be consumed within the temple, it would be superfluous, since it has already been said:[2] THOU SHALT NOT BE ABLE TO CONSUME IT WITHIN THY GATES. Then why does it say, THE TITHE OF THY CORN AND WINE AND OIL, AND THE FIRSTBORN? It compares the firstborn with the Second tithe: as the Second tithe must be consumed from year to year to year, so the firstborn must be consumed from year to year.[3]

Concerning the Number of Members in the Greater and Lesser Sanhedrins.

M. I. 6. The Great Sanhedrin consisted of seventy-one members, and the Lesser of twenty-three. Whence do we know that the Great Sanhedrin should consist of seventy-one? It is written:[4] GATHER UNTO ME SEVENTY MEN OF THE ELDERS OF ISRAEL. These with Moses make

[1] Deut. 15. 20. [2] Deut. 12. 17.
[3] And therefore does not become invalid after the first year.
[4] Numb. 11. 16.

seventy-one. R. Jehuda holds that there should be **M.** seventy only. And whence do we know that the Lesser Sanhedrin should consist of twenty-three? It is written:[1] AND THE CONGREGATION SHALL JUDGE; also,[2] AND THE CONGREGATION SHALL DELIVER; one congregation judges and one congregation delivers. Hence we have twenty. How do we know that a congregation was made up of ten? It is written:[3] HOW LONG SHALL I ENDURE THIS EVIL CONGREGATION?—that is the twelve spies, excluding Joshua and Caleb. And whence do we get the additional three? From the meaning of the passage:[4] THOU SHALT NOT FOLLOW AFTER THE MANY TO DO EVIL, from which it is to be understood that one must be with them for good. If so, why is it said: AFTER MANY TO CHANGE JUDGMENT? To change to good is not the same as to change to evil, since the former requires but a majority of one, whereas the latter requires two.[5] And since the court must not be divisible equally they add one more. Hence we have twenty-three.

How many should there be in a city to make it eligible for a Sanhedrin? A hundred and twenty families. R. Nehemia[6] says: Two hundred and thirty, to enable the number twenty-three to correspond with the heads of groups of ten families.

T. III. 7. Whence do we know that the Lesser Sanhedrin should consist of twenty-three? It is

[1] Numb. 35. 24.
[2] Numb. 35. 25.
[3] Numb. 14. 27.
[4] Exod. 23. 2.
[5] Light is thrown on this in *M.* 4. 1.
[6] R. Nehemia was one of the later pupils of R. Akiba.

written: THE CONGREGATION SHALL JUDGE; also,
T. AND THE CONGREGATION SHALL DELIVER; that is to say, ten acquit and ten condemn. And the three? Scripture says: THOU SHALT NOT FOLLOW AFTER THE MANY TO DO EVIL, from which it is to be inferred that thou art not to be with them for evil but for good. Perhaps thou art not with them for evil in any way? Scripture says: AFTER THE MANY TO AFFECT THE VERDICT, as well as for evil. Since the Law says that we should put to death in accordance with the evidence of witnesses, and also according to the verdict of the majority: then as two witnesses are necessary to secure a conviction, so a majority of two is necessary (for a verdict of condemnation). The court must not be divisible equally, so one more is added. Hence we have twenty-three.

Rabbi says: The additional three is adduced from the meaning of the passage: THOU SHALT NOT FOLLOW AFTER THE MANY TO DO EVIL, from which it is to be understood that one must be with them for good. If so, why is it said: AFTER MANY TO CHANGE JUDGMENT? To change to good is not the same as to change to evil, since the former requires a majority of one, whereas the latter requires two. And since the court must not be divisible equally, they add one more. Hence we have twenty-three.

8 R. Jose[1] the Galilaean says:[2] THOU SHALT NOT *REFRAIN*[3] IN A LEGAL CASE FROM MAKING A DECISION means: Make the court able to form a definite decision.

Another explanation: THOU SHALT NOT REFRAIN IN A LEGAL CASE FROM MAKING A DECISION; therefore Scripture adds one more to the court to form

[1] A distinguished contemporary of R. Akiba, and, it is said, the only one who ever successfully opposed him. See for such a clash of opinions, *T.* xiv. 6.

[2] Exod. 23. 2.

[3] R.V. has "neither shalt thou speak in a cause to turn aside." The word here rendered "speak" has in later Hebrew, in the *piel* conjugation, the meaning given by R. Jose.

a majority. AFTER RABBIM[1] TO AFFECT THE VERDICT; *i.e.* that thou mayest not say at the time of the trial, "It is enough that I hold the same view as my *master*." But say what is in thy mind. T.

9. R. Jehuda says: The (greater) Sanhedrin is of seventy only, since Moses was included in the number of the elders. It was replied: The court may not be of an even number.

Thus also used R. Jehuda to say: Every city in which are three rows of twenty-three, and officers of the judges, and the accuser and the witnesses, and their refuters and the refuters of their refuters, is fitted to have a Sanhedrin. R. Nehemia says: There must be two hundred and thirty in all. And the *Halaka* is according to him.[2] Rabbi says: Two hundred and seventy.

10. The Sanhedrin can practise both within and without the land of Israel. It is written:[3] AND THESE THINGS SHALL BE TO YOU FOR A STATUTE OF JUDGMENT UNTO YOU THROUGHOUT YOUR GENERATIONS IN ALL YOUR DWELLINGS; that is, both within and without the land. If this is so, why is it written: JUDGES AND OFFICERS SHALT THOU MAKE THEE IN ALL THY GATES?[4] Within the land of Israel they make them in every city; but outside the land, they make them in every province. R. Shimeon, the son of Gamaliel, says: ACCORDING TO THY TRIBES, AND THEY SHALL JUDGE,[5] ordains that each tribe shall be self-governing.

11. R. Dostai,[6] the son of Jehuda, says: Those guilty of death who have fled from the land of Israel

[1] Instead of its usual meaning—"the many," it is here regarded as the plural of Rabbi—"my master."

[2] See Exod. 18. 21. The least of the judges appointed were rulers over ten. Therefore for a council of twenty-three there must be a population of not less than two hundred and thirty.

[3] Numb. 35. 29. [4] Deut. 16. 18.

[5] Deut. 16. 18.

[6] R. Dostai b. Jehuda belonged to the latter end of the second century. He was possibly a pupil of R. Shimeon b. Jochai.

T. to another land, can be put to death at once. But those who have fled from another land to the land of Israel, cannot be put to death unless judged anew.

The Duties and Restrictions relating to the High-Priest.

M. II. 1. The High-priest can judge and be judged, can bear witness and be witnessed against; he may perform the *ḥaliṣa*[1] ceremony and it may be performed in the case of his wife; his brother may marry his wife if she be childless, but he may not marry his brother's wife since he is forbidden to marry a widow.[2]

If a death occur in his family he may not follow the bier, but may follow the procession as far as the city gate, both he and the procession remaining out of each other's sight—so R. Meir; but R. Jehuda holds that he may not leave the temple, since it is written:[3] AND FROM THE TEMPLE HE SHALL NOT DEPART.

When he consoles others, it is usual for the people to pass along one after the other, the Superintendent[4] placing the high-priest between himself and the people. When he is consoled by others, all the people say to him: "May we make expiation for thee!" and he replies: "Be ye blessed of Heaven!" When they hold the funeral meal,[5]

[1] Deut. 25. 5–10. [2] Lev. 21. 14.
[3] Lev. 21. 12.
[4] A priest of high rank and deputy of the high-priest; identical with the *sagan* mentioned in parallel passage of *Tosefta*.
[5] See *Moed Katon* 3. 7. The custom is based on 2 Sam. 12. 17.

all the people sit round on the ground, while he sits on the raised seat. M.

T. IV. 1. A high-priest who has slain a man intentionally is to be slain; if in error, he is to be an exile to the Cities of Refuge.[1] If he have transgressed a positive or negative command, or any other commandment,[2] he is to be treated as a commoner in every respect.

He does not perform the *ḥaliṣa* ceremony, nor is it performed in the case of his wife. He does not marry his deceased brother's wife if she be childless, nor does his brother marry his wife. (When, on the occasion of a death, he is consoled by others) he takes his position in the row, with the *sagan* at his right hand, and the head of his father's house on his left. And all the people say to him: "May we make expiation for thee!" and he says to them: "Be ye blessed of Heaven!" When he consoles others, he stands in the row with the *sagan* and the former high-priest on his right, and the mourner on his left. He may not be seen naked, nor when he is having his hair cut, nor when he is in the bath—as it is written:[3] AND HE THAT IS THE HIGH-PRIEST AMONG HIS BRETHREN, etc., so that his brethren the priests treat him with honour. But if he wish others to wash with him, he has such authority. R. Jehuda says: If he wished to conduct himself disgracefully, they must not listen to him, for it is written:[4] AND THOU SHALT KEEP HIM HOLY—even against his will.

They said to R. Jehuda: It is written,[5] AND FROM THE TEMPLE HE SHALL NOT DEPART, but this

[1] Numb. 35. 9 ff.

[2] In rabbinical terminology all the laws are divided into positive and negative commands, according as they begin with "thou shalt" or "thou shalt not."

[3] Lev. 21. 10.

[4] Lev. 21. 8.

[5] Lev. 21. 12.

T. refers only to the time when he is engaged in the temple worship. He may go to hold the funeral meal with others, and others may go to hold the funeral meal with him.

The Duties and Restrictions relating to the King.

M. II. 2. The king can neither judge nor be judged, he may not bear witness nor be witnessed against. He may not perform the *ḥaliṣa* ceremony nor may it be performed in the case of his wife. He may not marry his deceased brother's wife, if she be childless, nor may any of his brothers marry his widow. R. Jehuda said: If he were willing to perform the *ḥaliṣa* ceremony or to marry his deceased brother's wife, it would be remembered to his credit. It was answered: If he were willing he should not be listened to. No one may marry his widow. But R. Jehuda holds that a king may marry a king's widow, since it is written: AND I WILL GIVE THEE THY MASTER'S HOUSE, AND THY MASTER'S WIVES INTO THY BOSOM.[1]

3. If a death occur in his family, he may not leave the palace. R. Jehuda maintains that he may, if he wish, follow the bier, just as David followed Abner's bier, as it is written: DAVID THE KING WENT AFTER THE BIER.[2] But it was said in reply: That was done only to placate the people.[3] When they hold the funeral meal with

[1] 2 Sam. 12. 8. [2] 2 Sam. 3. 31.
[3] To show that he was not the cause of Abner's death. See 2 Sam. 3. 37.

him, all the people sit round on the ground while he sits on the couch. **M.**

4. He may undertake an aggressive war by permission of the court of seventy-one judges. He may force a way through (private property) and none may check him; the king's road has no limit. When the people have indulged in plunder they must first give it to him, and he takes his share before others.

HE MAY NOT HAVE NUMEROUS WIVES[1]—only eighteen.[2] R. Jehuda holds that he may have many provided they do not turn aside his heart. R. Shimeon asserts: He may not marry even one if she should turn aside his heart; else why should it say, HE MAY NOT HAVE NUMEROUS WIVES, even though they be the like of Abigail?

HE MAY NOT HAVE NUMEROUS HORSES—only such as suffice for his chariot. AND SILVER AND GOLD HE MAY NOT MULTIPLY TO HIMSELF—only such as suffices for wages. HE SHALL WRITE FOR HIMSELF A COPY OF THE LAW; when he goes out to war it shall go with him, and when he comes in it shall be with him. It shall be beside him when he sits in judgment, and when he sits at meat it shall be before him, for it is written: IT SHALL BE WITH HIM AND HE SHALL READ THEREIN ALL THE DAYS OF HIS LIFE.

[1] Deut. 17. 17. What follows is in the nature of a midrashic excursus on Deut. 17. 16 ff.

[2] The number is derived from 2 Sam. 12. 8, *lit.* "I would have added unto thee *the like of these and the like of these*," which is taken to mean twice as many more. And since David is already spoken of (2 Sam. 3. 2) as having six wives, the total number permissible is therefore eighteen.

M. 5. None may ride on his horse, and none may sit on his throne, and none may wield his sceptre. He may not be seen naked, nor when he is having his hair cut, nor when he is in the bath; for it is written:[1] THOU SHALT SURELY SET OVER THEE A KING whose fear shall be upon thee.

T. IV. 2. The king of Israel may not stand in the row to be consoled, nor to console others; nor may he go to hold the funeral meal with others, but others may go to hold the funeral meal with him, as it is written: AND THE PEOPLE WENT TO HOLD THE FUNERAL MEAL WITH DAVID,[2] etc. If he have transgressed a positive or negative command he is treated as an ordinary commoner in every respect.

He does not perform the *ḥaliṣa* ceremony, nor is it performed in the case of his wife. He does not marry his deceased brother's wife if she be childless, nor does his brother marry his wife. R. Jehuda says: If he wish to perform the *ḥaliṣa* ceremony he may. But it was replied: A king's honour must not receive hurt. No one may marry his widow, for it is written: SO THEY WERE SHUT UP TO THE DAY OF THEIR DEATH, LIVING IN WIDOWHOOD.[3] He may choose for himself wives wheresoever he please from among the priestly, Levitic, and Israelitish families.[4] None may ride on his horse, or sit on his royal chair, and none may make use of his crown or sceptre or any of the regalia. When he dies these are all buried with him at his burial, for it is written:[5] THOU SHALT DIE IN PEACE, AND WITH THE BURNINGS OF THY FATHERS, THE FORMER KINGS.

[1] Deut. 17. 15. [2] 2 Sam. 3. 35.
[3] 2 Sam. 20. 3.
[4] Israelites of pure descent who are eligible for marriage into priestly families. See *Kiddushim* IV. 1, 4, 5.
[5] Jer. 34. 5.

3. As are the burnings at the burial of kings, so also are the burnings at the burial of princes, but not at the burial of commoners. What is burnt? Their couch and other regalia. **T.**

4. When the king is present, all the people stand, and he keeps seated. (And none may sit in the temple courtyard except the kings of the house of David.) And all the people maintain silence when he speaks. He used to address them: "My brethren and my people," as it is written:[1] HEAR YE, MY BRETHREN AND MY PEOPLE: while they address him: Our lord and our master," as it is written:[2] BUT OUR LORD DAVID THE KING HATH MADE SOLOMON KING.

5. HE MAY NOT HAVE NUMEROUS WIVES—such as Jezebel; but the like of Abigail are permitted—so R. Jehuda. HE MAY NOT HAVE NUMEROUS HORSES—not even one horse that remains idle, for it is written: LEST HE SHOULD MULTIPLY HORSES. R. Jehuda says, Behold it is written:[3] AND SOLOMON HAD FORTY THOUSAND STALLS OF HORSES, and he did well, since it is written:[4] AND JUDAH AND ISRAEL WERE MANY AS THE SAND THAT IS ON THE SEASHORE FOR MULTITUDE. And since it is written:[5] TWELVE THOUSAND HORSEMEN, it follows that there were some of the horses left idle.

The above prohibitions do not apply to a mere commoner. R. Jose says: All that is ordained in the "paragraph of the king"[6] is permitted. R. Jehuda says: This chapter[7] was only uttered to impress the people with fear, for it is written: THOU SHALT SURELY SET OVER THEE A KING.[8]

R. Jehuda also said: Three commands were given to Israel when they entered the land of Israel:—they were commanded to appoint a king,

[1] 1 Chron. 28. 2.
[2] 1 Kings 1. 43.
[3] 1 Kings 4. 26.
[4] 1 Kings 4. 20.
[5] 1 Kings 4. 26.
[6] 1 Sam. 8. 11 ff.
[7] Deut. 17. 14 ff.
[8] Deut. 17. 14.

T. to build them a chosen temple,[1] and to cut off the seed of Amalek.[2] If this be so, why were they punished in the days of Samuel? Because they did so too soon. R. Nehorai[3] says: This paragraph was written in anticipation of future murmurings, for it is written: AND THOU SHALT SAY, I WILL SET A KING OVER ME.[4] R. Eleazar,[5] the son of R. Jose, says: The elders asked according to the Law, as it is written: GIVE US A KING TO JUDGE US;[6] but the common people went and dealt corruptly, as it is written: THAT WE ALSO MAY BE LIKE ALL THE NATIONS, AND OUR KING SHALL JUDGE US AND GO BEFORE US TO FIGHT OUR BATTLES.[7]

6. The property of those put to death by the court goes to their heirs, while that of those put to death by the king belongs to the king. But the majority hold that the property of those put to death by the king goes to their heirs. R. Jehuda said to them, It is written: BEHOLD HE (AHAB) IS IN THE VINEYARD OF NABOTH WHITHER HE IS GONE DOWN TO POSSESS IT.[8] They replied: Since he was the son of his father's brother,[9] it was right for him to inherit. Said R. Jehuda, But had Naboth no

[1] Deut. 12. 11. [2] Deut. 25. 19.

[3] R. Nehorai was a contemporary of R. Jose b. Halafta, and appears to have lived at Sepphoris.

[4] Deut. 17. 14.

[5] One of the five sons of R. Jose b. Halafta (see *T.* 2. 1). He accompanied R. Shimeon b. Jochai on his mission to Rome, which succeeded in securing the withdrawal of the persecuting Hadrianic decrees. Though quoted in the *Tosefta*, he is never mentioned in the *Mishnah*.

[6] 1 Sam. 8. 6. [7] 1 Sam. 8. 20.

[8] 1 Kings 21. 18.

[9] This curious statement has no biblical basis. Although the remark appears to be accepted by R. Jehuda it would appear to be a *petitio principii* of the crudest kind. It is taken for granted that because Jezebel regarded the death of Naboth as the only obstacle to Ahab's possessing the vineyard, therefore Ahab was Naboth's nearest relation. And since it is possible to show that he was not Naboth's brother, father, or son, he must have been his nephew. According to *B.* 48 *b*, he was his cousin.

sons? They replied: Did not the king kill both him and his sons? as it is written: SURELY I HAVE SEEN YESTERDAY THE BLOOD OF NABOTH, AND THE BLOOD OF HIS SONS, SAITH THE LORD; AND I WILL REQUITE THEE IN THIS PLAT, SAITH THE LORD.[1] T.

7. AND HE SHALL WRITE FOR HIMSELF A COPY OF THE LAW—that he be not dependent on that of his fathers, but on his own, for it is written: HE SHALL WRITE FOR HIMSELF—it must be written for himself only; and a commoner may not read therein, for it is written, *HE* SHALL READ THEREIN—the king, and no other. Also, the copy shall be revised in a court of the priests, and in a court of the Levites, and in a court of the Israelites who are eligible for marriage into the priestly families. When he goes to war, it shall be with him; when he enters in, it shall be with him; and when he goes to the court, it shall be beside him. When he goes to the toilet chamber, it is kept ready for him by the door. And thus David says: I HAVE SET GOD ALWAYS BEFORE ME (AND HE IS ON MY RIGHT HAND).[2] R. Jehuda, says: The book of the Law is on his right hand and the *tefillin*[3] on his arm.

R Jose said: It was fitting that the Law should have been given through Ezra even if Moses had not gone before him. A *going up* is mentioned in the case of Moses, and a *going up* in the case of Ezra; of Moses, as it is written:[4] AND MOSES WENT UP UNTO GOD; and of Ezra, as it is written: AND HE, EZRA, WENT UP FROM BABYLON.[5] As the *going up* of Moses taught the Law to Israel (as it is written: AND THE LORD COMMANDED ME AT THAT TIME TO TEACH YOU STATUTES AND JUDGMENTS),[6] so the *going up* of Ezra taught the Law to

[1] 2 Kings 9. 26.
[2] Psalm 16. 8.
[3] The phylacteries; cf. Matt. 23. 5.
[4] Exod. 19. 3.
[5] Ezra 7. 6.
[6] Deut. 4. 14.

T. Israel (as it is written: FOR EZRA HAD PREPARED HIS HEART TO EXPOUND THE LAW OF THE LORD, AND TO DO IT AND TO TEACH IN ISRAEL STATUTES AND JUDGMENTS[1]).

Also a writing and language was given through him, as it is written: AND THE WRITING OF THE LETTER WAS WRITTEN IN THE ARAMAIC CHARACTER AND INTERPRETED IN THE ARAMAIC TONGUE[2]; as its interpretation was in Aramaic so its writing was in Aramaic. And it is written: BUT THEY COULD NOT READ THE WRITING, NOR MAKE KNOWN TO THE KING THE INTERPRETATION THEREOF,[3] showing that it was not made known till the time of Ezra. Moreover it is written: AND HE SHALL WRITE A *COPY* (*mishneh*) OF THIS LAW, *i. e.* a Law which was at a future time to be *changed*.[4]

And why is the name of the writing called *Assyrian*? Because it came up with them from Assyria. Rabbi says: The Law was given to Israel in the Assyrian writing, and when they sinned it was changed to *Roaṣ*;[5] but when they repented in the days of Ezra it was changed again to Assyrian, as it is written:[6] TURN YE TO THE STRONGHOLD, YE PRISONERS OF HOPE: EVEN TO-DAY DO I DECLARE THAT I WILL BRING BACK THE *CHANGE*[7] UNTO YOU.

8. R. Shimeon,[8] the son of Eleazar, said in the

[1] Ezra 7. 10. [2] Ezra 4. 7.
[3] Dan. 5. 8.
[4] Deut. 17. 18. Playing on the double meaning of the root *Shana*, "to repeat" and also "to change."
[5] *Lit.*, "broken, rugged;" is supposed to refer to the peculiar shape of the letters in the Samaritan script. There is a variant *da'aṣ*, which might mean "wedge-like," and so refer to the cuneiform writing. See A. E. Cowley in *J. Th. S.* vol. XI, p. 542. What is in the text called *Assyrian writing* clearly refers to the modern Hebrew square character.
[6] Zech. 9. 12.
[7] R. V. "double;" the same word-play as above.
[8] R. Shimeon b. Eleazar was a pupil of R. Meir and a contemporary of Rabbi Jehuda ha-Nasi.

name of R. Eleazar,[1] the son of Parta, who spoke in the name of R. Eleazar[2] of Modin: The Law was given to Israel in the present writing, for it is written: THE HOOKS (*Hebr.* "the *waws*") OF THE PILLARS;[3] that is, *waws* that are like pillars. And it says: AND UNTO THE JEWS ACCORDING TO THEIR WRITING AND LANGUAGE;[4] as their language has not changed, so their writing has not changed. T.

Why is it called *Assyrian?* Because the characters of their writing were made *upright.*[5]

Why is it written: AND HE SHALL WRITE FOR HIMSELF A *COPY* OF THIS LAW? To show that he must write *two* books of the Law: one with which he goes in and out, and another that is placed for him within the house. The one that goes in and out with him does not go in with him to the bath-house or toilet chamber, for it is written: AND IT SHALL BE WITH HIM, AND HE SHALL *READ* THEREIN ALL THE DAYS OF HIS LIFE; *i. e.* it shall only go with him in places where it is possible to read.

And is there not here an argument *a fortiori*?[6] Since, even of the king of Israel who is entirely engrossed with the needs of the community, it is said: AND IT SHALL BE WITH HIM AND HE SHALL READ THEREIN ALL THE DAYS OF HIS LIFE, still more should the rule apply to the rest of the children of men.

9. Similarly with Joshua: AND JOSHUA THE SON

[1] R. Eleazar b. Parta (or Perata), although suffering imprisonment for participating in the revolt of Bar Kokba, survived the resulting persecution.

[2] R. Eleazar of Modin (or Modaim), whose dictum he hands on, was an elder contemporary who lost his life in the siege of Bethar.

[3] Exod. 27. 10. [4] Esth. 8. 9.

[5] Playing on the assonance *ashshur*, "Assyria," and *m'ushshar*, "upright" or "square."

[6] This argument *kal we-ḥomer* (*i. e.* the inference from a *lighter* to a *heavier* necessity) is of frequent occurrence in all rabbinical discussions.

T. OF NUN WAS FULL OF THE SPIRIT OF WISDOM; FOR MOSES HAD LAID HIS HAND UPON HIM;[1] and further it says: AND HIS MINISTER JOSHUA THE SON OF NUN, A YOUNG MAN, STIRRED NOT FROM THE MIDST OF THE TENT.[2] Yet even to him it is said: THIS BOOK OF THE LAW SHALL NOT DEPART OUT OF THY MOUTH.[3] Still more should the rule apply to the rest of the children of men.

10. A king cannot be appointed outside the land of Israel, nor can one be appointed unless he be eligible for marriage into the priestly families. And kings cannot be anointed except over a spring, for it is written:[4] AND HE SAID TO THEM, TAKE WITH YOU THE SERVANTS OF YOUR LORD, AND MOUNT SOLOMON MY SON UPON MINE OWN MULE, AND BRING HIM DOWN TO GIHON.[5]

11. Kings are only anointed when there is a dissension (as to who is the rightful king). Why did they anoint Solomon? Because of the dissension of Adonijah. And Jehu? Because of Joram. And Joash? Because of Athaliah. And Jehoahaz? Because of Jehoiakim his brother, who was his senior by two years.

A king must be anointed, but not one who is the son[6] of a king. Yet a high-priest, even though he be descended from a line of high-priests as far back as ten generations, must be anointed.

Kings are only anointed from a horn. Saul and Jehu were anointed from a pot,[7] because their kingdom was destined to be broken. David and Solomon were anointed from a horn, for their kingdom is an everlasting kingdom.

[1] Deut. 34. 9. [2] Exod. 33. 11.
[3] Josh. 1. 8. [4] 1 Kings 1. 33.
[5] A well-known spring near Jerusalem; cf. 2 Chron. 32. 30.
[6] Presumably the eldest son of a king about whose succession is no possibility of dissension.
[7] Or "vial." Cf. 1 Sam. 10. 1; 2 Kings 9. 1.

II.—JUDICIAL PROCEDURE

Those who are Eligible and those who are Ineligible as Judges or Witnesses.

III. 1. Non-capital cases are tried by three judges. Each of the contending parties chooses one, and the two together choose a third,—so R. Meir; but the majority hold that the two judges choose the third. Each may refuse to accept the other's judges,—so R. Meir; but the majority hold this to be the case only when proof is brought against them to the effect that they are kinsfolk or otherwise ineligible. But if they are eligible or authorized by the court, they cannot be disqualified. **M.**

Each may refuse to accept the other's witnesses, —so R. Meir; but according to the majority this is the case only when proof is brought against them to the effect that they are kinsfolk or otherwise ineligible.

2. If a man say, "I place confidence in my father," or "I place confidence in thy father," or "I place confidence in three herdsmen,"[1] — R. Meir holds that he may retract; but the majority hold that he cannot retract.

If a man is bound to his neighbour on oath, his neighbour saying to him, "Vow to me by the life of thine head!"—R. Meir holds that he may retract; but the majority hold that he cannot retract.

[1] The most disreputable of the population.

T. V. 1. Either party in a suit may refuse to accept the judges chosen by the opposing party; but the majority hold that no one is empowered to refuse a judge regarded by all as expert.

If a man say, "I place confidence in my father," "I place confidence in thy father," or "I place confidence in three herdsmen," he may retract.[1]

If a man is bound to his neighbour on oath, his neighbour saying to him, "Swear to me by thy life" or "by this or these objects held in my hand" he may retract until he take the oath in the presence of the judge,—so R. Meir; but the majority hold that he cannot retract. R. Jehuda said: The oath may not be administered before a single judge. To this it was replied: This is only thine own opinion; if the contending parties accept a single judge they cannot retract. R. Jehuda used also to say: If a man is bound to his neighbour on oath, his neighbour saying to him "Swear to me by thy life" and he have accepted such an oath, he cannot retract. It happened in the case of one who was bound to his neighbour on oath in the court, that he had sworn by a definite object, and his neighbour had accepted the oath.

M. III. 3. These are disqualified (as witnesses or judges): a dice-player, a usurer, pigeon-flyers, and those who trade with the Sabbatic growth.[2] R. Shimeon said: At first only the description *gatherers of the Sabbatic growth* was used, but since oppressors[3] have grown many, the prohibition is narrowed down to those who trade with the Sabbatic growth. R. Jehuda maintained that

[1] The Vienna MS. and the Venice edition (the textus receptus) add: "from the verdict,—so R. Meir; but the majority say that he cannot retract."

[2] Lev. 25. 1 ff.

[3] In the matter of taxation and economic pressure.

when such is a man's only occupation (he is dis- **M.**
qualified), but if he have another occupation he is eligible.

T. V. 2. One who gambles or plays with dice—and it is all one whether he play with blocks of wood or nutshells or pomegranate peel—can never be regarded as reformed until he agree to break up his dice and effect a complete reformation. One who lends money on usury cannot be regarded as reformed until he tear up his account-books and effect a complete reformation. A pigeon-flier—that is to say, one who trains pigeons, and it is all one whether he train pigeons or any other beast or living creature or bird—can never be regarded as reformed until he destroy those things which cause his disqualification and effect a complete reformation. One who trades with the Sabbatic growth—that is to say, one who remains idle the other six years and when the year of release[1] arrives begins to stretch his hands and feet and trade with the fruits of transgression—can never be regarded as reformed until, when the next year of release approaches, he is examined and found to have effected a complete reformation. R. Nehemia says: It must be a reformation in deed and not merely in word. What form does it take? (He must say) "These two hundred denarii have I amassed from the fruits of transgression. Divide them among the poor."

R. Meir called them "gatherers of the Sabbatic growth," while R. Jehuda called them "traders in the Sabbatic growth." Of both sort R. Jehuda said: If they have also another occupation they are disqualified; but if they reform they are eligible. The majority, however, hold that if they have another occupation they are disqualified (as witnesses) in such matters as the hallowing of the month or the intercalation of the year, and in non-capital and

[1] Deut. 15. 2.

T. capital case; but for testimony which a woman is eligible to give, they too are eligible.[1]

M. III. 4. These are reckoned as kinsfolk: a brother, paternal or maternal uncle, brother-in-law, father's and mother's brother-in-law, step-son, father-in-law, wife's sister's husband; — these together with their sons, their sons-in-law, and a man's step-son (but not the latter's children). R. Jose said: Such is the Mishnah of R. Akiba;[2] but the first Mishnah[2] included uncle, first-cousin, and all eligible to be heirs,[3] and those who at the time were relatives; but relatives who had since become estranged were eligible (as judges or witnesses). R. Jehuda holds that if a man's daughter die and leave children, her husband is still reckoned as a relative.

5. A friend or an enemy (is disqualified). Who is counted as a friend? One's groomsman. And an enemy? A man who from hostility has not spoken with his neighbour for three days. But to this it was replied: Israelites should not for this be suspected.

T. V. 3. A wife's brother-in-law is disqualified, but not a wife's brother-in-law's children. A step-son is disqualified, but not a stepson's children.

4. Kinsfolk may not judge each other, or with each other, or on behalf of each other, or in the presence of each other.

[1] According to *Rosh ha-Shana* 22 *a*, their evidence is valid only in matters relating to marriage.

[2] Referring to earlier, and presumably oral, compilations from which R. Jehuda ha-Nasi drew for his final authoritative Mishnah.

[3] Relatives on the father's side. See *B. Bathra* 8. 1 ff.

If a man became possessed of evidence at a time when he was the son-in-law of the accused, though the daughter be since dead; or while he was a trader in the Sabbatic growth, though he be now reformed; or while dumb but be since cured; or while blind but have since received his sight; or while mad but have since become sane; or while a foreigner but have since become a proselyte;—such a man is disqualified. But if he became possessed of the evidence before he was the son-in-law of the accused, and have since become his son-in-law, and afterward the daughter died; or before he traded in the Sabbatic growth, and have since become a trader in the Sabbatic growth, and afterward reformed; or while he was possessed of hearing, and have since become deaf, and afterward recovered; or before being blind, and he again received his sight after being blind; or before he was mad, and after being mad he again became sane;—such a one is eligible. The general rule is, that one who was eligible in the first case, and is at present eligible,—such a one is eligible. If he was ineligible in the first case and is at present ineligible, or if he was ineligible in the first case, but is at present eligible,—such a one is ineligible. T.

5*a*. If one were possessed of evidence in writing against the accused, and have since become his son-in-law, he cannot bring forward his handwriting to support his evidence, but others may do so.

If he have received from him a house or field for the payment of a hundred *manae*,[1] and he have evidence concerning the fact, he cannot bring forward the evidence; for no man may testify on his own behalf.

Among persons disqualified to act as judges or witnesses are also to be included robbers, herdsmen and extortioners, and all suspect concerning property.[2] Their evidence is always invalid.

[1] A *manê* was equivalent to the earlier shekel.

[2] That is, any one whose honesty has ever been called in question.

The Method of Legal Procedure in Non-Capital Cases.

M. III. 6*a*. How were witnesses examined? They were brought in and admonished;[1] they were then sent out, leaving behind the chief one of them. He is asked, "How do you know that A is indebted to B?" If he answer, "A acknowledged the indebtedness to me," or "C told me that A was indebted to B," his statement is valueless. His evidence is valueless until he can say, "In our presence A acknowledged that he owed B two hundred *zuzim*."[2]

T. V. 5*b*. The evidence of witnesses is not regarded as valid unless they have actually seen what they assert; and R. Jehoshua, the son of Karha, maintains that it is likewise invalid when the two witnesses do not agree. Their evidence is only regarded as upheld when the two are as one.

R. Shimeon says: They hear the words of the first witness one day, and when the other comes on the morrow they hear his words.

VI. 1. If the witnesses say, "We testify against A that he slew the ox of B," or "cut the plants of C," and the accused say, "I do not know," he is guilty. If they were to say, "Thou didst intend to slay it," or "Thou didst intend to cut them," it is merely a matter of suspicion. If a man say, "Hast thou slain my ox?" or "Hast thou cut my plants?" the other may answer "No" or "Yes" with the intent of mystifying his questioner. For there is a nay that is a yea, and a yea that is a nay.

[1] Put on oath.

[2] The *zuz* was equivalent to the silver denarius, worth a quarter of a shekel.

III. 6*b*. If after the second witness has been brought in and examined their statements are found to agree, the matter is then discussed. Should two of the judges pronounce the accused innocent and one guilty, he is declared innocent. Should two pronounce him guilty and one innocent, he is declared to be guilty. Should one pronounce him innocent and one guilty, or even if two pronounce him innocent or guilty, while the third declares himself to be in doubt, the number of judges must be increased. **M.**

7. After the matter has been discussed, the contending parties are brought in. The chief judge then announces, "A, thou art innocent," or "A, thou art guilty." And whence do we know that when one of the judges goes out he must not say, "It was I who acquitted and my colleagues who convicted; but what can I do when they are in the majority"? Of such a one as this it is said: HE THAT GOETH ABOUT AS A TALEBEARER, REVEALETH SECRETS; BUT HE THAT IS OF A FAITHFUL SPIRIT CONCEALETH THE MATTER.[1]

T. VI. 2. Men must stand when they pronounce sentence, or bear witness, or ask for absolution from vows, or when they remove any one from the status of priesthood or of Israelitish citizenship. The judges may not show forbearance to one man and strictness to another, nor suffer one to stand and another to sit; for it is written: IN RIGHTEOUSNESS SHALT THOU JUDGE THY NEIGHBOUR.[2] R. Jehuda said, "I have heard a tradition that if they wish to let them both sit, they can do so; yet this is of no

[1] Prov. 11. 13. [2] Lev. 19. 15.

T. importance. But where is it forbidden that one sit and another stand?" They replied in the name of R. Ishmael: "It has been said: Be clothed as he is clothed, or: Clothe him as thou art clothed."

3. After what fashion do they conduct the trial? The judges remain seated with the contending parties standing before them; and the one who brings the charge states his case first. When there are witnesses, these are brought in and admonished. All of them except the chief witness are then sent out, and the judges hear what he has to say and then dismiss him. Afterwards they bring in the two contending parties who state their case in each other's presence. If all the judges decide that the accused is innocent, he is adjudged innocent; and if all the judges decide that he is guilty, he is adjudged guilty. The same applies to non-capital and capital cases.

Non-capital cases are tried by three judges. If two convict or acquit and the other declares that he is in doubt, the number of judges is increased. Of more worth is the decision of one who says "guilty" than that of one who declares himself in doubt. To what extent do they add to the judges? Gradually, adding two at a time. If both (the new judges) declare him innocent, he is adjudged innocent; and if guilty, he is adjudged guilty. If one of them convicts while the other declares himself in doubt, the number of the judges must be increased, for up to that point the court has not come to a decision. If one says innocent, and another guilty, and another declares himself in doubt, the number of judges is increased, for up to that point they have but added one (to either side).

4*a*. They must go on adding to the judges until the trial is completed.

M. III. 8. So long as the accused can bring forward evidence, it may undo the decision. If he have

been told to bring forward all his evidence within **M.** thirty days, and he do so within the thirty days, it may undo the decision. But after thirty days it may not[1] undo the decision.

Rabban Shimeon, the son of Gamaliel, asked: "What happens if he have not found it within thirty days, but find it after thirty days?" It was answered: "If they have said to him, 'Bring witnesses,' and he say 'I have no witnesses'; or 'Bring evidence,' and he say 'I have no evidence'; yet after the stated time he find both witnesses and evidence, it shall not avail him."

Rabban Shimeon, the son of Gamaliel, asked: "What happens if he did not know that he had witnesses, then found witnesses; or did not know that he had evidence, then found evidence?" It was answered: "If they have said to him, 'Bring witnesses,' and he say 'I have none'; or 'Bring evidence,' and he say 'I have none'; and then, seeing himself about to be condemned, he say: 'Bring in such and such men and let them bear witness,' or if he bring out some evidence from his girdle, it shall not avail him."

T. VI. 4*b*. Evidence and proofs can always be brought to the court until the trial is completed. The witnesses cannot withdraw their statements until the trial is completed, or until such time as that to which the trial has been deferred. If the judges fix a time limit for the accused, and he bring forward further evidence within that time, it is accepted from him; after that time it is not accepted from him,—so R. Meir; but the majority

[1] C omits "not."

T. hold that even if he bring it after three years it is accepted from him, and may annul the former decision. But if they say "Have you other witnesses?" and he say "I have but these"; or "Have you further proofs?" and he say "None but these," yet after that time he have found other witnesses and other proofs, they cannot be accepted from him unless he bring evidence to the fact that he never knew of them.

5 The witnesses can always withdraw their statements before they are investigated by the court. But after they have been investigated by the court they cannot withdraw them. And that is the general rule on this question. Witnesses who give evidence in cases of clean and unclean, of family relationships, of what is forbidden or allowed, of guilt or innocence,—if before their testimony has been investigated they say, "We were inventing," they are to be believed. If they say this after their testimony has been investigated they are not to be believed.

6. Witnesses cannot be adjudged perjurers until the trial has been completed. They cannot be scourged, fined, or put to death, until the trial has been completed. One of the witnesses cannot be adjudged a perjurer without the other; and one cannot be scourged without the other, or put to death without the other, or fined without the other. Said R. Jehuda,[1] the son of Tabbai: "May I not live to see the consolation,[2] if I did not once put to death a perjured witness in order to root out the opinion of the Boethuseans,[3] who used to say that

[1] Lived in the time of Alexander Jannaeus and Alexandra (Salome). With Shimeon b. Shatah his name is preserved as that of the third of the *Zugoth* "pairs" of scholars, who handed on the unwritten tradition from the time of Simon the Just. See *Pirke Aboth*, I. 1 f.

[2] For this expression, cf. Luke 2. 25.

[3] These were a Jewish sect, closely akin to the Sadducees, and, like them, denying the immortality of the soul, and the resurrection. They are frequently referred to as in conflict with the Pharisees.

a perjured witness could not be put to death till after the accused had been put to death." Shimeon, the son of Shatah, said to him: "May I not live to see the consolation, if thou hast not shed innocent blood! For the Law says: AT THE MOUTH OF TWO WITNESSES OR THREE WITNESSES SHALL HE THAT IS TO DIE BE PUT TO DEATH.[1] Just as there are two witnesses, so there must be two perjurers." At that time Jehuda, the son of Tabbai, agreed that he would never utter a legal decision except in agreement with Shimeon, the son of Shatah.[2] T.

VII. 1. Said Rabban Shimeon, the son of Gamaliel: At first, the only ones who subscribed to women's marriage settlements were either priests, Levites, or true Israelites eligible for marriage into priestly families.

Said R. Jose: At first there were no contendings of opinion in Israel except in the court of the seventy in the Hewn Chamber.[3] Other courts of twenty-three were in the various cities of the land of Israel, and two other courts of three each were in Jerusalem, one in the Temple Mount, and one in the chamber of the Temple Wall. If any one were in need of legal direction, he went to the court of his own city, and if there were none there he went to the one nearest his city. If there they knew a tradition bearing on the case they told it to him; if not, he and the instructing judge of that court went together to the court in the Temple Mount. If there they knew a tradition bearing on the case, they told it to them; if not, they and the instructing judge went to the court in the Chamber of the Temple Wall. If there they had a tradition bearing on the case,

[1] Deut. 17. 6.

[2] According to rabbinic tradition (see *Tosefta Hagiga*, 2. 8.) Shimeon and Jehuda were President and Vice-President respectively of the court.

[3] The meaning is, that here only was it allowed to decide by vote an issue for which tradition gave no guidance. The judgments of the other courts were tied to precedents.

T; they told it to them; if not, both parties went to the court in the Hewn Chamber.

This court consists in all of seventy-one members, and never falls below twenty-three.[1] If one of the members wish to go out he first looks round: if there are twenty-three there, he may go out; if not he cannot.

This court used to sit from the time of the morning daily offering till the evening burnt offering; but on Sabbaths and holy days the members used only to go to the *Beth Midrash*[2] in the Temple Mount. If, when a question was put to them, they knew a tradition bearing on the case, they told it; if not, it was put to the vote. If in a case, the majority decreed a thing to be unclean, it was unclean; if clean, it was clean. Thence did the legal decision go forth and spread abroad in Israel.

But from the time that the disciples of Shammai and Hillel grew so numerous,[3] these few courts did not suffice for their needs, and opposing views increased in Israel. Therefore they (in the chief court in Jerusalem) used to send and seek out every one who was wise and sane, fearing sin and of blameless past, and from whom the spirit of health descended. Such a one they made a judge in his city.[4] After he had served as a judge in his own city they brought him up and gave him a seat in the court in the chamber of the Temple Wall; and from there they promoted him to the court in the Hewn Chamber.

[1] The minimum necessary in a capital case.

[2] House of Study. The Sabbath was devoted to the study, as opposed to the practice, of the Law.

[3] The School of Hillel and the School of Shammai were representatives of rival types of exegesis; the one arguing in favour of a more lenient, and the other for a more harshly literal interpretation of the Law.

[4] Apparently to act as local expert, and avoid as far as possible the need of appealing to a higher court.

It was there that they sat and investigated the priestly and Levitical pedigrees.[1] The priest whose claim to the priesthood was found to be invalid went away clothed and veiled in black; while he whose claim was found to be valid, was clothed in white and served with his brethren the priests. He brought the tenth of an ephah[2] as his sin-offering, and offered it with his own hand, even though it was not his course.[3] But whether he be a high-priest or an ordinary priest, if he have served in the Temple before bringing his tenth of an ephah,[4] his service is valid. T.

2 *a*. They may not judge two cases on one day, even though they be the cases of an adulterer and his paramour.[5] But they judge the one first and then the other. And they cannot vote on two points at once, nor be asked two questions at the same time; but they vote first on the one and then on the other, and first hear the one question and then the other. They may not vote except in a large place, nor may they vote except where they can be heard. If one member argue on the basis of a tradition, while the others all say "We have never received such a tradition," they do not vote on this. But if it is a case where one would allow and another disallow, or one declare clean and another unclean, while all admit that there is no tradition bearing on the matter, on this they vote.

If one speaks in the name of two, and to win the name of one, the word of the one who speaks in the name of two is of greater authority than the word of the two who speak in the name of one. Also, a father and his son, or a master and his

[1] Cf. Josephus, *Contr. Apion.* I. 7.
[2] Lev. 6. 20.
[3] 1 Chron. 24. 1ff. Cf. Luke 1. 8.
[4] That is, before the revision of his priestly pedigree.
[5] Where conviction in the one case involves conviction in the other.

T. pupil, count as one only in voting on cases of purity and impurity. They may not sit side by side even though they say nothing, but must get up and sit apart.

Differences in Legal Procedure distinguishing Capital from Non-Capital Cases.

M. IV. 1. Non-capital and capital cases are identical with regard to examination and inquiry,[1] as it is written: YE SHALL HAVE ONE MANNER OF LAW.[2]

What is the difference between capital and non-capital cases? Non-capital cases are tried by three, and capital by twenty-three judges. Non-capital cases may begin either with the argument for acquittal or the argument for conviction; while capital cases begin with the argument for acquittal and not with the argument for conviction. In non-capital cases the conviction or acquittal can depend on a majority of one; in capital cases the acquittal can depend on one, but the conviction must depend on a majority of two. In non-capital cases the judges may change their verdict either from conviction to acquittal, or from acquittal to conviction; but in capital cases they may change their verdict from conviction to acquittal but not from acquittal to conviction.

In non-capital cases they may all plead either

[1] The two terms are derived from Deut. 13. 14 (v. 15 in Hebr.). They seem to be used here with no real difference of meaning. They refer to the investigation of the main points, leading questions, as opposed to "cross-examination"—questions as to subsidiary details.

[2] Lev. 24. 22.

in favour of conviction or of acquittal; but in M. capital cases they may all plead in favour of acquittal but not of conviction. In non-capital cases one who pleads in favour of conviction may subsequently plead in favour of acquittal, and one who pleads in favour of acquittal may subsequently plead in favour of conviction; but in capital cases one who pleads in favour of conviction may subsequently plead in favour of acquittal, but he who pleads in favour of acquittal cannot change and plead in favour of conviction.

In non-capital cases the trial may take place in daytime and the verdict be given in the night; but in capital cases the trial takes place in daytime and the verdict is given in daytime. In non-capital cases a verdict of acquittal or of conviction may be reached the same day; while in capital cases a verdict of acquittal may be reached the same day, but a verdict of conviction not until the following day. Therefore such a case is not tried on the eve of a Sabbath or festival.

2. In non-capital cases, and in cases of purity and impurity, the opinion of the eldest is asked first; in capital cases that of those sitting at the side.

All are eligible to try non-capital cases; but capital—only priests, Levites, and Israelites who are eligible for marriage into the priestly families.

T. VII. 2*b*. In the hallowing of the month and the intercalation of the year, and in non-capital cases, they vote in order of seniority, beginning

T. with the eldest; but in capital cases they begin with those at the side, the junior members of the court, so that their opinion shall not be based on that of their elders. In capital cases they begin not with the case for prosecution, but with the case for the defence, except only in the case of a beguiler to idolatry,[1] and, according to R. Jehoshua, the son of Karha, the case of one who leads a town astray.[2]

3. In the case of those liable to the penalty of exile,[3] the court may change a verdict of conviction into a verdict of acquittal (but not one of acquittal into one of conviction), for it is written: YE SHALL TAKE NO RANSOM FOR THE LIFE OF A MANSLAYER WHICH IS GUILTY OF DEATH[4]; and also, AND THIS IS THE CASE OF THE MANSLAYER . . . WHOSO KILLETH HIS NEIGHBOUR UNAWARES.[5] Since the term *manslayer* is thus used both of intentional and unintentional homicide, the trial of the latter is subject to the rules for trials in capital cases.[6]

4. In the case of those liable to the penalty of scourging, the court may change a verdict of conviction into a verdict of acquittal (but not one of acquittal into one of conviction), for it is written: AND THEY SHALL JUSTIFY THE RIGHTEOUS AND CONDEMN THE GUILTY . . . . AND IF THE GUILTY MAN BE WORTHY TO BE BEATEN,[7] etc. Since the term *guilty* is used both here, of the one liable to

[1] Deut. 13. 6–11; see *Mishnah* VII. 10*a*.
[2] Deut. 13. 12 ff; see *Mishnah* VII. 10*b*.
[3] Guilty of unintentional homicide; Numb. 35. 15.
[4] Numb. 35. 31. [5] Deut. 19. 4.
[6] This and the following paragraph are examples of the rabbinical argument *gezera shawa*, the argument from analogy: *i.e.* if the force of an expression is ambiguous in one passage, its meaning may be deduced from another where its use is not ambiguous. The argument must often result in a fallacy when, as in the following example, the passages cited for the analogy have nothing in common except one particular word which has no bearing on the conclusion.
[7] Deut. 25. 1–2.

scourging, and also of the murderer, this trial also T. is subject to the rules of trials in capital cases.

5. The eunuch and such as have no children are eligible to try non-capital cases but not capital cases; and according to R. Jehuda, they also who are biased in the direction of severity or forbearance are subject to the same restriction.

6. They may not argue a case afresh (after the vote has been taken), but R. Jehuda says they may.

If there be two of whom one would prohibit and the other allow, or one who would declare unclean and the other clean, the one who prohibits or declares unclean must bring proof; all who tend to the harsher opinion must bring proof. And some say that the same applies to the one who would take a more lenient view.

They may not give their attention to a case except in the place where they vote, nor indulge in too long a session. When a case has been dismissed it cannot be rediscussed. Why is this? Because of the rule that they cannot argue a case afresh.

When (in a debate) the speaker has completed his statement, he cannot take back what he has said unless his opponent grant him the right. When the main subject of the case has been dealt with, secondary points become the main subject. A man may not answer his neighbour more than three times lest his mind become confused. One argues against two, or two against one, or two against three, or three against two; but never three against three, or greater numbers, lest the court get into confusion.

7. In non-capital cases they may say "The matter is too obvious,"[1] but not in capital cases; and such a statement can only be made by the chief judge.

They may not ask or answer questions while standing too high up, too far away, or behind the

[1] Lit. "become old, stale," *i. e.* a commonplace in law unworthy of debate, or of any further investigation.

T. members of the court. They may only ask relevant questions, and answer to the point. They may not put a question on a matter which involves more than three legal decisions.

If one member put a question while another speaks not asking a question, attention is given to him who puts the question. If one ask for a precedent, he must say "I ask for a precedent." If one ask a relevant question and another ask an irrelevant question, they answer him who puts the relevant question. If one ask an irrelevant question he must say "My question is not relevant,"—so R. Meir; but the majority hold that the practice of the law need not be wholly bound up with what is relevant.[1]

Attention is paid to what is relevant rather than to what is not relevant, to what is a precedent rather than to what is no precedent, to Halaka [2] rather than to Midrash,[3] to Midrash rather than to Haggada,[4] to the argument *from less to greater* [5] rather than to Midrash, to the argument *from less to greater* rather than the argument from analogy,[6] to a member of the court rather than to a disciple, and to a disciple rather than to an ignorant man. But when it is a case of deciding between two members of the court, or two disciples, or two ignorant men, or two *halakoth*, or two questions, or two answers, or two precedents, the authority for the decision at such a point lies with the speaker [7] of the court.

[1] That is, the Torah is not an utterly inelastic system.

[2] An actual previous legal decision.

[3] Interpretation of a text. For the contradistinction of Halaka and Midrash, cf. Kiddushim 49*a* (end).

[4] Interpretation more edifying than exact.

[5] For examples of this *a fortiori* argument, see above, *T.* iv. 8, 9.

[6] See previous note on *gezera shawa*.

[7] *Turg'man*, lit. "interpreter," not used elsewhere in this connexion. Probably the *Hakam*, "advising sage" to the court, is meant. Cf. note on R. Meir, *Mishnah* I. 1, p. 23, n. 9.

The Arrangement of the Court, and the Method adopted for adding to the Number of the Judges.

IV. 3. The Sanhedrin sat in the form of a semi- **M.** circle so that they might all see each other; and two judges' clerks stood in front, one on the right and one on the left, taking down the evidence for the prosecution and the defence. R. Jehuda holds that there were three: one taking down evidence for the prosecution, the second for the defence, and the third taking down both. Before them sat three rows of disciples, each knowing his own place. If it became necessary to appoint another judge, he was appointed from the front row, while one from the second row took his place, and one from the third row that of the second. And for the third row one of the assembled audience was chosen. He did not sit in the place just vacated, but in a place for which he was suited.

T. VII. 8. When the "Prince"[1] enters, all the people stand, and do not sit until he bids them do so. When the "father of the court"[1] enters, they stand up on either side to make a passage for him, until he has come in and taken his place. When a member of the court enters, one after another stands up to make room for him until he has come in and taken his place. When the services of the children and disciples of the members of the court are re-

[1] Except for the isolated passage, Hagiga 2. 2, there is no mention in the *Mishnah* of these two, the *Nasi* and *Ab beth din*. They probably did not exist till the Jabne period, *i. e.* after the destruction of Jerusalem.

T. quired, they pass over the heads of the assembled people. And although they say that it is not praiseworthy in a disciple of the wise to come in late, he may yet go out if necessity demand it, and come in again and take his place.

9. The children and disciples of the members of the court, if they can understand the proceedings, turn their faces to their fathers; if not, they turn their faces towards the assembled people. R. Eleazar, the son of R. Zadok, says: "Also at a feast, children are placed by the side of their fathers."

10. When a member of the court comes in, his opinion is not asked until he has had time to make up his mind. Similarly a disciple should not be asked his opinion as soon as he comes in. If, on his entering, he finds the court occupied in some legal discussion, he may not break in upon their talk until he has sat down and discovered what is the subject with which they are occupied. If he should do so, it is of such a one that it is said: "There are seven marks of the clod, and seven of the wise man,"[1] etc.

11. Seven rules of interpretation did the elder Hillel[2] expound before the elders of Bethyra: the argument *a fortiori*, the analogy of expressions, the

[1] *Pirke Aboth*, V. 10. The quotation continues: "The wise man speaks not before one who is greater than he in wisdom, and does not interrupt the words of his companion."

[2] The great Jewish teacher of the period immediately preceding the birth of Jesus, and the first of the great family which included the two Gamaliels. His life is estimated to have covered the period 70 B.C. to 10 A.D. He was a pupil of Shemaiah and Abtalion, and with Shammai formed the fifth of the *Zugoth*. (See *Pirke Aboth*, I. 1 ff.) Nothing definite is known of the Elders (or Sons) of Bethyra who are here spoken of in the text. They appear to have been a body of teachers who were overshadowed by Hillel's greater learning, and who, as a result, ceded their position of leadership to him. The exposition of his "seven rules of interpretation" seems to have constituted part of his armoury in this conflict. His seven rules were afterwards increased to thirteen by R. Ishmael b. Shamua at the end of the first century A.D. (See Singer, *Authorised Daily Jewish Prayer Book*, p. 13.)

generalization from one instance, the generalization from two instances, universal and particular terms, analogy drawn from another passage, and the conclusion to be drawn from the context. These seven rules did the elder Hillel expound before the elders of Bethyra. T.

VIII. 1. Every Sanhedrin in which are two members competent to speak, and all to comprehend, is worthy of being a Sanhedrin. If there are three, it is an average assembly; if four, a wise one.

The Sanhedrin was arranged in the form of a semicircle, so that they might all see each other. The Prince sat in the middle with the elders on his right and left. R. Eleazar, the son of Zadok, said: "When Rabban Gamaliel[1] sat in Jabne, my father and another sat on his right, and the other elders on his left." And why does one sit in accordance with age on the right? Because of the reverence due to age.

2. There were three rows of disciples sitting in front of them: the most important first, the second in importance next, and the third in the last row. After this there was no fixed order, except that each should be placed four cubits away from his fellow.

The officers of the court, the defendant, the witnesses and their refuters, and the refuters of their refuters, used to stand within the front row, near the people. And it was always easy to know which was the defendant, since he was always stationed next to the chief witness.

[1] Rabban Gamaliel (the Second), was grandson of the Gamaliel referred to in Acts v. 34. He succeeded Jochanan b. Zakkai as President of the Jabne Sanhedrin, and aimed at a policy of interpretation which should reconcile the opposing Schools of Hillel and Shammai. He was a powerful influence in the community which centred at Jabne, and seems to have been the first to whom the title *Nasi*, "Prince," was applied. He died shortly before the revolt of 135 A.D.

The Method of admonishing Witnesses in Capital Cases.

M. IV. 5*a*. How were witnesses admonished in capital cases? They were brought in, and admonished to the effect that "what you say may be merely your own opinion, or hearsay, or second-hand, or derived from a trustworthy person. Perhaps you do not know that we intend to question you by examination and inquiry. Know, moreover, that capital cases are not like non-capital cases: in non-capital cases a man may pay money and so make expiation; but in capital cases the blood of the accused and of his posterity may cling to him (the witness) to the end of the world. For so we find it in the case of Cain, who slew his brother, as it is written: THE VOICE OF THE *BLOODS* OF THY BROTHER CRIES TO ME FROM THE GROUND[1];—not the *blood* of thy brother, but the *bloods* of thy brother—his blood and that of his posterity."

Another explanation: *BLOODS* OF THY BROTHER;—because his blood was scattered over the trees and stones.

T. VIII. 3. ("Merely your own opinion.") With what object is this said? In order that the witness should not (for example) bring forward as evidence: "We saw the defendant with a sword in his hand running after his fellow; the latter thereupon fled into a shop followed by the other; we went in after them and found the one slain, and in the

[1] Gen. 4. 10.

hand of the murderer was a sword dripping blood." **T.** And lest thou shouldst say: "If not he, who then did kill him?" (take warning from the example of) Shimeon, the son of Shatah, who said, "May I not live to see the consolation if I once did not see a man with a sword in his hand running after his fellow; the latter thereupon went into a deserted building followed by the other; I entered after him and found the one slain and a sword in the hand of the murderer dripping blood. I said to him: Wicked man, who slew this one? May I not live to see the consolation if I did not see him; one of us two must have slain him. But what can I do to thee, since your condemnation cannot rest in my hands? For the Law says: AT THE MOUTH OF TWO WITNESSES, OR AT THE MOUTH OF THREE WITNESSES, SHALL HE WHO DIES BE PUT TO DEATH. But he who knows the thoughts, he exacts vengeance from the guilty; for the murderer did not stir from that place before a serpent bit him so that he died"

IV. 5 *b*. For this reason man was created one **M.** and alone in the world: to teach that whosoever destroys a single soul is regarded as though he destroyed a complete world, and whosoever saves a single soul is regarded as though he saved a complete world; and for the sake of peace among created beings that one man should not say to another, "My father was greater than thine," and that heretics should not say, "There are many ruling powers in heaven"; also to proclaim the greatness of the King of kings of kings, blessed be He! for mankind stamps a hundred coins with one seal, and they are all alike, but the King of kings of kings, blessed be He! has stamped every man with the seal of the first Adam, and not one of

M. them is like his fellow.[1] So every single person is forced to say, The world was created for my sake.

T. VIII. 4. Man was created one and alone in the world. And why was he created one and alone in the world? That the righteous might not say, "We are the children of a righteous man," and the wicked, "We are the children of a wicked man."

Another explanation: Why was he created one and alone? That families might not quarrel: since even now, when all men are come from the same stock, they quarrel, how much more would they do so if they had come from different stocks!

Another explanation: Why was man created one and alone? Because of thieves and robbers: since even now, when all men are come from the one stock, they rob and steal, how much more would they do so if they had come from different stocks?

5. Another explanation: Why was he created one and alone? To declare the greatness of the King of kings of kings, blessed be He! who with one seal fashioned every one in the whole world, yet from the one seal go forth many impressions, as it is written: IT IS CHANGED AS CLAY UNDER THE SEAL, AND ALL THINGS STAND FORTH AS IN A GARMENT.[2]

6. Why are faces unlike each other? Because of impostors—that none should break into his neighbour's field, or go in unto his neighbour's wife: AND FROM THE WICKED THEIR LIGHT IS WITHHOLDEN, AND THE HIGH ARM IS BROKEN.[3] R. Meir says: The Almighty varied the fashion of the face, knowledge and voice; the fashion of the face and

[1] Meaning that man was created in one exemplar, in the shape of Adam: and that he must be regarded as representative of the whole of the human race.

[2] Job 38. 14. [3] Job 38. 15.

knowledge because of thieves and robbers, and the T. voice because of lewdness.

7. Man was created last (in the order of creation). And why was he created last? Lest the heretics[1] should say: We (mankind) were partners with God in his work.

8. Another explanation: Why was man created last? That if his mind become too proud it may be said to him: "The mosquito preceded thee in the order of creation."

Another explanation: That he should at once be subject to the laws of the world.

9. Another explanation: That he might enter the banquet at once. They propounded a parable: To what can it be compared? It is like a king who built a palace and dedicated it, and prepared a banquet and invited the guests; and so it is written: THE WISEST OF WOMEN HATH BUILDED HER HOUSE,[2]—that is the King of kings of kings, blessed be He! who created his world in seven days by "wisdom"; SHE HATH HEWN OUT HER SEVEN PILLARS—these are the seven days of creation; SHE HATH KILLED HER BEASTS AND MINGLED HER WINE—these are the seas and rivers and pastures and other needs of the world; SHE HATH SENT FORTH HER MAIDENS, SHE CRIETH UPON THE HIGH PLACES OF THE CITY, WHO IS SIMPLE LET HIM TURN IN HITHER, AND HE WHO IS VOID OF UNDERSTANDING, etc.—these are mankind and the beasts.

IV. 5*c*. Perhaps you say: "Why do we take this trouble of bearing witness?" But has it not been written: HE BEING A WITNESS, WHETHER HE HATH SEEN OR KNOWN, IF HE DO NOT UTTER IT, THEN SHALL HE BEAR HIS INIQUITY?[3] Or perhaps

[1] *Minim*, lit. "sects." Jewish Christians are probably referred to.
[2] Prov. 9. 1. Cf. Prov. 14. 1.
[3] Lev. 5. 1.

M. you say: "Why are we responsible for this man's blood?" But has it not been written: WHEN THE WICKED PERISH THERE IS REJOICING?[1]

The Method of Legal Procedure in Capital Cases.

V. 1. Witnesses were examined by seven queries: In what Sabbatic period? In what year? In what month? On what day of the month? On what day? At what hour? and, Where? According to R. Jose the queries were: On what day? At what hour? Where? Do you recognize him? Did you warn him? And, in the case of idolatry, they were asked, What idol was worshipped?[2] and, How was it worshipped?

2. The judge who cross-examines at great length is deserving of praise. Ben Zakkai[3] once carried his cross-examination into details about fig-stalks!

What is the difference between "queries" and "cross-examination"? If, during the queries, one answered, "I do not know,"[4] the testimony of the witnesses is worthless; but if, in cross-examination, one say, "I do not know," or if two say, "We do not[5] know," their evidence holds good. Yet

[1] Prov. 11. 10.

[2] C omits this query, but it is necessary to make up the required seven.

[3] Jochanan ben Zakkai (see *Pirke Aboth*, II. 9.) was a pupil of Hillel, and as founder of the Sanhedrin of Jabne—which became the religious centre after the fall of Jerusalem—formed an important link with the condition of things now past and gone.

[4] K and C (slightly corrupt) add: "and two answer, We do not know."

[5] C omits negative.

in either case where they contradict each other's evidence, their evidence is worthless. **M.**

T. IX. 1 *a*. R. Shimeon, the son of Eleazar, says: "They take the witness from place to place so that his mind may become confused."

R. Jose says: "The judges need not ask in what Sabbatic period? In what month? On what day of the month? but only, On what day? At what hour? In what place? Do you recognize him? Did you warn him? With what did he kill him? Did he kill him with a sword? Did he kill him with a stick? Did he strike him on the leg? Did he strike him intentionally on 'the bird of life'?[1] In what direction was he looking when he killed him?"[2]

V. 3. If one say "on the second of the month" and another "on the third," their evidence holds good, since one and not the other may have known of an intercalation of the month. If one say "at the second hour" and the other "at the third," their evidence is valid. If one say "at the third hour" and the other "at the fifth," their evidence is invalid. R. Jehuda, however, maintains that it is valid; though if one say "at the fifth hour" and the other "at the seventh," their evidence is invalid, since at the fifth hour the sun is in the east, and at the seventh it is in the west. **M.**

T. IX. 1 *b*. If one say "on the second of the month" and another "on the third," their evidence is valid because all may not be aware of an intercalation of the month. If one say "at the second hour"

[1] A euphemism.

[2] If he were not looking at the victim he may have dealt an unintentionally fatal blow. See *Mishnah* IX. 2.

T. and the other "at the third," their evidence is valid because all may not know the exact hour. If one say "at the third hour" and the other "at the fifth," their evidence is invalid. R. Jehuda, however, says: "In that case their evidence is valid; though if one say 'at the fifth hour' and the other 'at the seventh,' their evidence is invalid, for all must know that at the fifth hour the sun is in the east, and at the seventh in the west."

M. V. 4. The second witness was also brought in and examined. If their testimony is found to agree, they open the case for the defence. If one of the witnesses say "I have something to plead in favour of his acquittal," or if one of the disciples say, "I have something to plead in favour of his conviction," he is silenced. But if a disciple say, "I have something to plead in favour of his acquittal," he is brought up and given a place with the judges, where he remains all day. If there is reason in his plea he is listened to. Even if the accused say that he has something to plead in his own defence he is listened to, but only if his words are reasonable.

T. IX. 1*c*. If the evidence of the witnesses is found to agree, the chief judge opens the case for the defendant, and his fellow judges support him.

M. V. 5*a*. If the accused is found innocent he is set free; if not, his case is passed over till the morrow. The judges then go apart in pairs and take some food, but they drink no wine the whole day. They spend the night discussing the case and come to the court early on the morrow. He who is in favour of acquittal says, "I acquitted yesterday

and I still acquit," and he who is in favour of conviction says, "I convicted yesterday and still convict." He who had previously urged conviction may now acquit, but he who had previously urged acquittal cannot now turn and urge conviction. If any err in this matter the judges' clerks must remind them. **M.**

T. IX. 1 *d*. If they have found for the defendant they set him free; if not, his case is passed over till the morrow. The judges then go apart in pairs and take food—but they drink no wine—and discuss all night the section of Scripture bearing on the case: if it was a case of murder, they discuss the section dealing with murder;[1] if a case of incest, they discuss the section dealing with incest.[2] On the morrow they come early to the court, and the officers call on each judge to give his verdict. If one answer, "I acquitted yesterday and still acquit," his decision is accepted; if he say, "I acquitted yesterday, but now I convict," such a decision is not accepted. If he say, "I convicted yesterday, but now I acquit," his decision is accepted; if he say, "I convicted yesterday and I still convict," they say to him, "Study thy words anew." If one of those who now acquit have changed his former opinion the judges' scribes remind him of what he said before; but if one of those who now convict have changed his former opinions they do not remind him, but say to him, "Study thy words anew."

V. 5 *b*. If acquitted (by all the judges) the accused is set free; if not, the matter is decided by vote. If twelve acquit and eleven convict, he is to be acquitted; if twelve convict and eleven acquit,[3] or **M.**

[1] Numb. 35. 15 ff. [2] Lev. 18. 6 ff.
[3] Conviction in a capital charge needs a majority of two; see *Mishnah* IV. 1.

M. if even twenty-two acquit or convict while the remaining one declares himself in doubt, the number of judges is increased. To what extent are they increased? Two by two until seventy-one is reached. If thirty-six acquit and thirty-five convict, he is to be acquitted; if thirty-six convict and thirty-five acquit,[1] the case is tried over among themselves until one of those who convict agrees with those who acquit.

T. IX. 2. If they find for the defendant, they set him free; if not, the matter is decided by vote. If thirty-six acquit and thirty-five convict, he is acquitted. If thirty-six convict and thirty-five acquit, they try the case over among themselves until one of those who convict say, "I agree with those who acquit."

3. If one of the disciples say, "I have something to plead on behalf of the defendant," the judges accept him in a friendly way and bring him up and seat him with them. If there be reason in his plea they include him as a judge, and he remains with them always; and if not, he still remains with them the whole of that day, so that his rise should not be his fall.

4. If one say, "I have something to plead on behalf of the defendant," they listen to him; but if it be against the interests of the defendant, they silence him with a rebuke.

A witness cannot plead either for or against the defendant; but R. Jose, the son of R. Jehuda, says that he may plead for, but not against, the defendant.

If twelve acquit and eleven convict, he is acquitted; if twelve convict and eleven acquit, they

[1] C. and N. add, through error, "he is to be convicted; if thirty-five (N thirty-six) acquit and thirty-five (N thirty-six) convict."

add to the number of judges until they persuade one to acquit or two to convict. **T.**

R. Jose said, "If any one of the judges retract they vote anew, it may be once, twice, or three times; and whether or not there is reason in his words, they listen to him. Beyond this, they listen only if his words be reasonable; otherwise, they do not listen."

III.—THE FOUR CAPITAL PUNISHMENTS

The Carrying out of the Sentence of Stoning.

VI. I. When the trial is finished, the man convicted is brought out to be stoned. The stoning place was outside the court, for it is written: SEND FORTH HIM THAT HATH CURSED WITHOUT THE CAMP.[1] A man is stationed at the door of the court with a handkerchief in his hand, and a horseman distant just so far as to be able to see him; so that if some one in the court say, "I have something to plead in his defence," that man may wave the handkerchief and the horseman run to bring the proceedings to a standstill. Even if the convicted one say, "I have something to plead in my own defence," he is to be brought back, it may be four or five times, provided his plea is reasonable; then if he be acquitted he is set free, and if not, he is again taken out to be stoned. A herald goes before him (crying), "N. son of N. is going forth to be stoned, in that he has committed such and such an offence. N. and N. are his witnesses. Any one knowing ought in his defence, let him come and urge it." **M.**

[1] Lev. 24. 14.

M. 2. When ten cubits from the stoning-place they say to him, "Confess: for it is the custom of all about to be put to death to make confession; and every one who confesses has a share in the world to come; for so we find it in the case of Achan. Joshua said to him: MY SON, ASCRIBE GLORY TO THE LORD, THE GOD OF ISRAEL, AND MAKE CONFESSION UNTO HIM; AND TELL ME NOW WHAT THOU HAST DONE; HIDE IT NOT FROM ME. AND ACHAN ANSWERED JOSHUA, AND SAID, OF A TRUTH I HAVE SINNED AGAINST THE LORD, THE GOD OF ISRAEL, AND THUS AND THUS HAVE I DONE.[1] Whence do we know that his confession expiated his crime? It is written: AND JOSHUA SAID, WHY HAST THOU TROUBLED US? THE LORD SHALL TROUBLE THEE THIS DAY[2];—this day thou art to be troubled, but thou art not to be troubled in the time to come."

If he does not know how to make confession, he is told to say, "May my death be an expiation of all my sins." According to R. Jehuda, if he know himself to be condemned wrongfully, he says, "Let my death be an expiation of all my sins save this." But it was replied, "If so, every one would say so to clear himself."

3. Four cubits from the stoning-place the criminal is stripped. A man should be covered in front, and a woman in front and behind,—so R. Meir; but the majority hold that a man should be stoned naked but not a woman.

4*a*. The drop from the stoning-place was twice

[1] Josh. 7. 19 ff. [2] Josh. 7. 25.

the height of a man.[1] One of the witnesses pushes **M.** the criminal from behind, so that he falls face downward. He is then turned over on his back. If he die from this fall, that is sufficient. If not,[2] the second witness takes the stone and drops it on his heart. If this cause death that is sufficient; if not, he is stoned by all the congregation of Israel, for it is written: THE HAND OF THE WITNESSES SHALL BE AGAINST HIM FIRST TO PUT HIM TO DEATH, AND AFTERWARD THE HAND OF ALL THE PEOPLE.[3]

T. IX. 5. Those who are put to death by the court have a share in the world to come, because they confess all their sins. Ten cubits from the stoning-place they say to the condemned man, "Confess!" It happened to one who went out to be stoned, that when they told him to confess, he said, "May my death be an expiation of all my sins; and if I have done this, let it not be forgiven me, and let the court of Israel be innocent." When this was reported to the judges their eyes trickled with tears, but they said, "It is not possible to reprieve him, for then there would be no end to the matter; but his blood is hung on the neck of his witnesses."

And (as showing that Achan has a share in the world to come) it is written: AND THE SONS OF ZERAH ARE ZIMRI AND ETHAN AND HEMAN AND CALCOL AND DARDA,[4] FIVE OF THEM IN ALL[5]; and we cannot understand how that they are (still) five

[1] Cf. Luke 4. 29.

[2] C omits "the second witness." R N P insert: "he takes the stone and drops it on his heart. If this cause death that is sufficient; if not . . ." Note, according to *Tosefta* and also *Gemara* (45*a*) the stones require two men.

[3] Deut. 17. 7.

[4] *Dara* in 1 Chron. 2. 6.

[5] 1 Chron. 2. 6.

T in all, except it be that the passage teaches that even Achan[1] is with them in the world to come.

6*a*. Four cubits from the stoning-place they strip off his clothes. They covered a man partially in front, and a woman in front and behind, because a woman is all nakedness,—so R. Jehuda who spoke in the name of R. Eliezer;[2] but the majority hold that a man is stoned naked, but not a woman.

The drop from the stoning-place was twice the height of a man, or three times his height if we include the height of the man himself. R. Shimeon says, "There was a stone there so heavy as to require two men to lift it; this was taken and dropped on the heart of the condemned man in order to carry out what the law of stoning demands."

The Hanging and Ultimate Disposal of the Corpse.

M. VI. 4*b*. Every one stoned is to be hanged,—so R. Eleazar; but the majority hold that only blasphemers and idolaters are to be hanged. A

[1] According to rabbinical exegesis, the Achan of Josh. 7 is to be identified with the Zimri of Numb. 25. 14, who in his turn is presumed to be identical with the Zimri of 1 Chron. 2. 6. Cf. *B. Sanh.* 44*b*, "in one place the name is written Zimri, and in another Achan. Rab and Samuel [Babylonian Amoraim, *c.* 230] argued the point: the one maintained that his real name was Achan, and that he was called Zimri because he did the works of Zimri; the other maintained that his real name was Zimri, and that he was called Achan because he made the sins of Israel to rest on them like a circle" [word-play on *'Achan* and *'ikken*].

[2] R. Eliezer ben Hyrcanus, *c.* 90–130 A.D., was a pupil of Jochanan ben Zakkai, who describes him (*Pirke Aboth*, II. 10) as "a plastered cistern which loseth not a drop." He set up a college at Lydda, was the teacher of R. Akiba, and a member of the Sanhedrin at Jabne under Gamaliel II. He was, however, so conservative, that his fellow-members found it necessary in the interests of religious progress to excommunicate him from their debates. It is also reported of him that on one occasion he was tried before a Roman court on suspicion of being a Christian.

man is hanged with his face to the people, and **M.** a woman with her face to the gallows,—so R. Eleazar. But the majority hold that a man is to be hanged, but not a woman. R. Eleazar replied, "Did not Shimeon, the son of Shatah, hang women in Ashkelon?" They answered, "He hanged eighty women, whereas two cases must not be judged in one day."[1]

How was a man hanged? A beam was fixed in the ground with a cross-piece; the corpse's hands were fastened together, and it was so hanged. According to R. Jose the beam leaned against a wall, the corpse being suspended on it after the manner adopted by butchers. It was then taken down immediately, for if it remain, a negative command is broken, since it is written:[2] HIS CORPSE SHALL NOT REMAIN ON THE TREE, BUT MUST BE BURIED THE SAME DAY; FOR THAT WHICH IS HANGED IS A CURSE OF GOD,[3]—as if to say, "Why is this one hanged? Because he cursed the Name, and the Name of Heaven was found defiled."

5*a*. R. Meir said: When men are in trouble, what says the tongue? I am pained in my head, I am pained in my arm.[4] If Scripture speak thus,

[1] And having violated one rule, the occurrence cannot be brought forward as a valid precedent for the method of observing another rule.

[2] Deut. 21. 23.

[3] Such is the literal rendering. *Mishnah* interprets as an "objective genitive" *a curse* (*or cursing*) *against God*; while the illustrative parable in *T'sefta* implies the interpretation *a cause of cursing against God*, something which brings God into disrepute; man being in the image of God must not be allowed to suffer the indignity of hanging.

[4] So B. C untranslatable.

M. "I am troubled at the blood of the wicked," how much more at the blood of the righteous which is shed?

T. IX. 6*b*. Also, when a man is hanged, at the moment when one is tying him up, another is loosening the knot, in order to carry out what the law of hanging demands.

7. R. Meir said: What means the Scripture: FOR THAT WHICH IS HANGED IS A CURSE OF GOD? It is as though there were two brothers, twins, who were like one another in appearance; one became king of the world, while the other went off and consorted with thieves. After a time the latter was captured and crucified on a cross, and all who came and went said, "It is like as though the king were crucified." Therefore it is said: FOR THAT WHICH IS HANGED IS A CURSE OF GOD.

M. VI. 5*b*. Furthermore, any one who allows the dead to remain overnight transgresses a negative command; but if it has been allowed to remain for purposes of honour, to bring wrappings or a coffin, there is no transgression. Criminals were not buried in their fathers' burying places; but two burying places were prepared by the court: one for the stoned and burnt, and one for the decapitated and strangled. 6. When the flesh had been consumed, the bones were gathered and buried in their proper place. The kinsfolk came and saluted the witnesses and the judges, to show that they bore no ill-will, since the trial was just. They did not make (open) lamentation[1] for the criminal: they mourned, but only in their own heart.

[1] The word used has special reference to the seven days of public mourning ceremonies; cf. *Moed Katon* 20*a*.

T. IX. 8. The sword with which a man is beheaded, the wrap with which he is strangled, the stone with which he is stoned, and the beam on which he is hanged, were immersed for purification and not buried with him. When the flesh was consumed, the messengers of the court used to collect the bones and bury them in a coffin; and even if the criminal were the king of kings[1] he could not be buried in the burying place of his fathers, but only in that prepared by the court. 9. Two burying places were prepared by the court: one for the stoned and burnt, and one for the decapitated and strangled. And so David says: GATHER NOT MY SOUL WITH THE SINNERS.[2]

The other Forms of Death Penalty: Burning, Decapitation, and Strangulation.

VII. 1. The court had the power of inflicting four kinds of death penalty: stoning, burning, decapitation, and strangulation. R. Shimeon gives them in the order:[3] burning, stoning, strangulation, and decapitation. The regulations for those to be stoned have already been given. **M.**

T. IX. 10. The court had the power of inflicting four kinds of death penalty, whereas the civil authority[4] can only inflict the penalty of the sword.

VII. 2. The regulations for those to be burnt: the criminal is placed in dung up to his knees, and round his neck is arranged a wrap of coarse **M.**

[1] The Emperor himself.
[2] Psalm 26. 9.
[3] In descending order of severity.
[4] *Decollatio* was not the only death penalty in use at the time in the Roman Empire: see *Tac. Ann.* ii. 32; Suetonius, *Nero* 49, *Claud.* 34.

M. material enclosed within one of soft; the ends of the wrap are pulled on both sides until the criminal opens his mouth; a thin bar of lead is heated and tossed into his mouth, and this goes down to his stomach and inflames his entrails.

R. Jehuda says: Even if he die so in their hands, they have not yet carried out the regulations of burning: they must open his mouth with forceps against his will,[1] heat the leaden bar, and toss it into his mouth; this goes down to his stomach and inflames his entrails.

R. Eleazar, the son of Zadok, said: It happened in the case of a priest's daughter[2] who had committed adultery, that she was surrounded with faggots and in that manner burnt. But it was replied: The court at that time did not possess accurate knowledge.

> **T.** IX. 11*a*. Said R. Eleazar, the son of R. Zadok: When I was a child I was once carried on my father's shoulder to see a priest's daughter who had committed adultery; they surrounded her with faggots and so burnt her. They replied: Thou wast a child, and a child cannot give evidence.

M. VII. 3*a*. The regulations for those to be decapitated: their heads are cut off with a sword after the usage of the (Roman) Empire.

R. Jehuda said: Such a death is too shameful; on the contrary, a man's head is placed on the block and cut off with an axe. But it was replied: There is no death more shameful than this.

[1] R. Jehuda's amendment is to avoid the possibility of death taking place by strangulation.

[2] Lev. 21. 9.

T. IX. 11*b*. R. Jehuda said: Behold it is written: AND THOU SHALT LOVE THY NEIGHBOUR AS THYSELF,[1] therefore one must choose for him a seemly death. And how do we do this for him? His head is placed on an executioner's block and chopped off with a hatchet.

To this it was replied: There is no death more disgraceful than this; moreover such should not be done since it is written: IN THEIR ORDINANCES YE SHALL NOT WALK.[2]

VII. 3*b*. The regulations for those to be strangled:[3] the criminal is placed in dung up to his knees; and round his neck is arranged a wrap of coarse material enclosed within one of soft; the ends of the scarf are pulled on both sides until life is extinct. **M.**

IV.—OFFENDERS LIABLE TO CAPITAL PUNISHMENT

A.—THOSE WHO ARE PUNISHABLE BY STONING

VII. 4. These are they who are to be stoned: the man who has criminal connexion with his

[1] Lev. 19. 18.

[2] Lev. 18. 3. But according to the *Mishnah* already quoted the correct method was "after the usage of the Roman Empire." In the Cod. Vienna and Venice ed. the difficulty is partly avoided by the reading, "He (R. Jehuda) said to them: And though there be no more disgraceful death, still it is written 'And in their ordinances, etc.'"

[3] This penalty is not mentioned in the Old Testament. In the Rabbinic code it is applied to those criminals for whom death is decreed in the Pentateuch without specifying the mode of death. In regard to these it is argued (*B.* 52*b*, 53*a*) that since the Law must not be construed with severity, the most lenient form of death, *i. e.* strangulation, must be applied. Another line of argument is: Sometimes "death at the hands of Heaven" is ordained (Gen. 38. 7, 10; Lev. 10. 7, 9); and as death from Heaven leaves no visible marks, so must the death inflicted by the tribunal leave no mark. And such is only possible by death from strangulation.

M. mother, his father's wife, his daughter-in-law, a male, or a beast; the woman who has criminal connexion with a beast; a blasphemer; an idolater; he who offers one of his children to Moloch; the *Baʿal ʿOb;* the *Yiddʿoni;*[1] he who defiles the Sabbath; he who curses his father or mother; he who has criminal connexion with a betrothed damsel; the beguiler to idolatry; he who leads a town astray; the sorcerer; and the stubborn and rebellious son.

1–6. Those Guilty of Incestuous and Unnatural Crimes.

(1) He who has criminal connexion with his mother[2] is guilty both in respect of the law of the mother and the law of the father's wife. R. Jehuda holds that he is guilty in respect of the law of the mother only. (2) He who has criminal connexion with his father's wife[3] is thereby guilty both in respect of the law of the father's wife and that of the married woman, whether before or after his father's death, whether she be betrothed or actually married. (3) He who has criminal connexion with his daughter-in-law[4] is thereby guilty in respect both of the law of a man's daughter-in-law and that of a married woman, whether it be before or after his son's death, whether she be betrothed or actually married. (4–5) In the case of one who has criminal connexion with a male[5] or

[1] For these, see *Mishnah* VII. 7*b* and notes.
[2] Lev. 20. 11.
[3] Lev. 20. 11.
[4] Lev. 20. 12.
[5] Lev. 20. 13.

a beast,[1] or (6) of the woman who has criminal connexion with a beast,[2] if the human being has sinned wherein lies the sin of the beast? Since by its means an offence has happened to a human being, Scripture says: LET IT BE STONED.[3] Or, according to another explanation, (it is put to death) lest the beast should go through the street and it be said: This is the animal on account of which such a man was stoned. **M.**

T. X. 1. R. Jehuda said: He who has criminal connexion with his mother is guilty only in respect of the law of the mother. R. Jehuda said: He who has criminal connexion with his father's wife is guilty only in respect of the law of the father's wife.

2. He who has criminal connexion with his own mother who is the divorced wife of a high-priest, or an ordinary priest's wife who has been subjected to the *ḥaliṣa* ceremony, or an illegal wife of his father, or one of the "nakednesses" of his father,—is liable to the penalty of stoning.

He who has criminal connexion with his father's wife (not his own mother) who is the divorced widow of a high-priest, or an ordinary priest's wife who has been subjected to the *ḥaliṣa* ceremony,—is liable to the penalty of stoning; but if (being neither of these two) she is an illegal wife of his father, or one of the "nakednesses" of his father,—he is not liable to the penalty of stoning.

He who has criminal connexion with his sister is guilty in respect of the law of the sister and also of the law of the daughter of his father's wife. R. Jose says: He is guilty only in respect of the law of the

[1] Lev. 20. 15. [2] Lev. 20. 16.

[3] Cf. Lev. 20. 16, "Their blood shall be upon them," and this, according to Lev. 20. 27, by the argument *gezera shawa*, means death by stoning.

T. sister; and the same holds good for one who has criminal connexion with his daughter-in-law.

One who has criminal connexion with a male, nine [1] years and a day old; and one who has criminal connexion with a beast in its way, and not in a woman's way; and the woman who has criminal connexion with a beast, whether or not according to its way,—are to be stoned.

7. The Blasphemer.

M. VII. 5. The blasphemer [2] is not guilty until he have expressly uttered the Name. According to R. Jehoshua, the son of Karha, the witnesses throughout are examined by means of pseudonyms: [3] for example "Jose strikes Jose." But when the trial is over the sentence is not carried out under a pseudonym: all are sent out of the room except the chief witness, and it is said to him: "Say expressly what you heard." He does so, whereupon the judges stand up and rend their clothes; [4] and they may not mend them again. The second witness then says, "I heard the same," and the third says, "I too heard the same."

8. The Idolater.

6. In a case of idolatry it is all one whether a man worship, sacrifice, offer incense, or pour out

[1] The age at which males were regarded as nubile.

[2] See Lev. 24. 10 ff. According to the Talmud (cf. *Yoma* 39 b), the pronunciation of the Sacred Name was at one time known to all; but "from the time that Simon the Just died"—the customary expression for the beginning of the Hellenistic period—it was gradually forgotten.

[3] The witnesses who had heard the blasphemy might not repeat the words, but made use of an arbitrary formula to describe the crime.

[4] Cf. Mark 14. 63; Matt. 26. 65.

libations; or whether he bow himself down, accept it as a god, or say to it "Thou art my God." But he who puts his arm round it, kisses, sweeps,[1] besprinkles, washes, anoints, clothes, or shoes it breaks a negative commandment.[2] He who makes a vow in its name, and keeps it in its name, breaks a negative commandment; so also does he who excretes[3] to *Ba'al Pe'or*—for such is his cult, and he who tosses a stone on a *merkolis*[4]—for such is its cult. **M.**

T. X. 3. In a case of idolatry it is all one whether a man worship, sacrifice, offer incense, or pour out libations, or bow down and accept it as a god and say to it, "Thou art my God, save me!" They are to be stoned. He who makes an idol, carves it, or sets it up, speaks with it, or wipes or scrapes it, transgresses a negative commandment; they are not liable to stoning until there is in their action some similarity to sacrificing, offering incense, pouring out libations, or bowing down. So also he who embraces, kisses, sweeps, sprinkles, clothes, shoes, or shrouds it, offends against a negative commandment. R. Jehuda says, "It is written: AND I WILL LEAVE ME SEVEN THOUSAND IN ISRAEL, ALL THE KNEES THAT HAVE NOT BOWED TO BAAL, AND EVERY MOUTH WHICH HATH NOT KISSED HIM,[5]—comparing kissing with kneeling. As kneeling incurs guilt, so

[1] C reads "sifts (?), embraces."

[2] Cf. Exod. 20. 5; 23. 24; Deut. 5. 9.

[3] Word-play on *Pe'or*. Cf. Isa. 5. 14; Psalm 119. 131, for meaning of root.

[4] Mercurius, Hermes. A *merkolis* was a representation of the head of Hermes on the top of a square-shaped pillar, placed in prominent positions at cross-roads or boundaries. Passers-by signalized their homage to Hermes Enodios, the patron deity of the wayfarer, by throwing stones at it, gradually forming a cairn. Cf. Vulgate of Prov. 26. 8 and *Aboda Zara*, III. 7.

[5] 1 Kings 19. 18.

T. does kissing; and their death is left in the hands of Heaven."

9. He who offers his Children to Moloch.

M. VII. 7*a*. He who offers one of his children to Moloch[1] is not guilty until he both delivers him over to Moloch and passes him through the fire. If he deliver him over to Moloch and do not pass him through the fire, or if he pass him through the fire but do not deliver him over to Moloch, he is not guilty. (He is not guilty) until he both delivers him over to Moloch and passes him through the fire.

T. X. 4. He who offers one of his children to Moloch is not guilty until he delivers him over to Moloch and also passes him through the fire. If he deliver him over to Moloch, and do not pass him through the fire; or pass him through the fire, but do not deliver him over to Moloch: he is not guilty. (He is not guilty) until he both delivers him over to Moloch and passes him through the fire, in the way peculiar to the Moloch worship.[2] If he pass him through on his feet he is innocent, and he can only be guilty in the case of his own offspring. 5. If he cause his father or mother or sister to pass through, he is innocent. If he cause himself to pass through, he is innocent; but R. Shimeon would condemn him. There is the same guilt if the passing through be in the name of Moloch or of any other idol; but R. Shimeon, the son of Eleazar, holds that it must be in the name of Moloch only.

[1] Lev. 20. 2; 18. 21; Deut. 18. 10.

[2] *Sanh.* 64*a*: "What was that? Said Abayi: A row of bricks was arranged for the passage, and on both sides fire was kindled. Rabba maintains that it was by jumping, as children used to jump on Purim."

10–11. The Baʿal ʿOb and the Yiddʿoni.

VII. 7*b*. The Baʿal ʿOb,[1] that is, the *Python*[2] who speaks from his armpits, and the *Yiddʿoni*[3] who speaks from his mouth, are punishable by stoning; and he who has inquired of them (offends) against an explicit warning.[4] **M.**

T. X. 6. The *Baʿal ʿOb*, that is the *Python* who speaks from between his joints and elbows, and the *Yiddʿoni*, who has the bone of a *Yiddʿoni*[5] in his mouth, are to be stoned; and he who inquires of them offends against an explicit warning.

7. HE WHO INQUIRES OF THE DEAD;[6]—that is, one who conjures up the dead by witchcraft, or one who inquires of a skull. What is the difference between one who inquires of a skull and one who conjures up the dead by witchcraft? When one conjures up the dead by witchcraft it (the ghost) does not come up in the proper way,[7] nor will it come up on the Sabbath; but when one inquires of a skull it comes up in the ordinary way, and will also come up on the Sabbath.

12. The Sabbath-breaker.

VII. 8*a*. If a man defile the Sabbath[8] by a **M.**

[1] Lev. 19. 31; 20. 27; Deut. 18. 11.

[2] Vulgate of Lev. 20. 27. "*Vir sive mulier in quibus pythonicus . . . fuerit spiritus.*" LXX normally renders *ʿOb* by ἐγγαστρίμυθοι, and Plutarch *De defectu oraculorum*, states that in his time ἐγγαστρίμυθοι were called πύθωνες. Cf. Acts 16. 16.

[3] R. V. Deut. 18. 11: "familiar spirit."

[4] Cf. Lev. 19. 31.

[5] *Sanh.* 65*b* has *yaddúʿa*. This, according to Rashi, was a wild beast, or, according to Maimonides, a bird.

[6] Deut. 18. 11.

[7] That is, according to Rashi, feet uppermost.

[8] Numb. 15. 32–36. See *Mishnah Shab.* VII. for the thirty-nine acts which may not be performed on the Sabbath.

M. wilful act, he is liable to extermination;[1] if by error, to a sin-offering.

13. Who curses His Parents.

8*b*. He who curses his father or mother[2] is not guilty until he curse them by the Name; if he curse them under a pseudonym[3] R. Meir would hold him guilty, but the majority innocent.

14. The Seducer of a Betrothed Damsel.

9. He who has criminal connexion with a betrothed damsel[4] is guilty only if she be a virgin, betrothed, and in her father's house. If two have criminal connexion with her, the first is to be stoned and the second strangled.

> T. X. 8. He who has criminal connexion with a betrothed damsel is guilty only if she be a damsel, a virgin, betrothed, and in her father's house. If she be a betrothed damsel and in her *husband's* house, or a betrothed woman of marriageable age[5] in her father's house, (9) or a married woman in

[1] *Kārēth*, *i.e.* "cutting off," "extirpation,"—by death. Cf. the common expression in the Pentateuch: "That soul shall be cut off from his people." Some crimes, though not legally punishable by the court, are such that the authors suffer *Kārēth*, a death penalty direct from heaven. The tract *Kerithoth* in the Talmud is devoted to this subject.

[2] Exod. 21. 17; Lev. 20. 9.

[3] Making use of one of the attributes instead of the actual Name itself; *e.g.* "the Almighty," "the Longsuffering," etc. See *Mishnah Shebu'oth* IV. 13.

[4] Deut. 22. 23–34. The description *na'ara*, "damsel," is, according to *Mishnah Niddin* V. 67, only applicable to one between the age of twelve years and a day and twelve years and six months.

[5] No longer a "damsel," but *bogereth*, "entering maturity," past the age of twelve years and six months.

either her father's or her husband's house, whoever has criminal connexion with her is to be strangled.[1] If ten have had criminal connexion with her at a time when she is still a virgin, all are to be stoned; if she be not a virgin the first is to be stoned and the others strangled. T.

10. If, however, she have received her husband in her father's house, then, although she be still a virgin, one who has criminal connexion with her is to be strangled.[1]

A betrothed damsel who has committed adultery is to be stoned at the door of her father's house. If there is no door to her father's house, she is to be stoned where she committed adultery. And if it be in a heathen city, she is to be stoned at the door of the court.

15. The Beguiler to Idolatry.

VII. 10*a*. "He who acts the part of a beguiler"[2] refers to one commoner who beguiles another commoner. If he have said, "There is a god in such a place who eats this, drinks that, benefits in this way, does harm in that way," then only in such cases among the capital charges laid down in the Law, is it proper to lie in wait for the criminal. If he have said this to two people they act as his witnesses, bring him to the court and stone him. If he have said it only to one, this one may reply, "I have some friends who would consent in this"; but if the idolater is crafty, and will not speak of it before them, witnesses may be concealed behind a wall. Thereupon the first witness M.

[1] It comes within the scope of adultery; *Mishnah* XI. 6*b*.

[2] Deut. 13. 6–11. "Commoner" is mentioned to exclude the "false prophet" who (*Mishnah* XI. 5) is punishable by strangulation.

M. says, "Tell me between ourselves what you said to me before." He does so. Then the former replies: "How can we leave our God who is in Heaven and go and worship wood and stone?" If he retract what he said, good; but if he say, "It is our duty and good for us," they who are behind the wall bring him to the court and stone him.

He is guilty as a beguiler who says, "I will worship (other gods)," "I will go and worship," "Let us go and worship"; "I will sacrifice," "I will go and sacrifice," "Let us go and sacrifice"; "I will offer incense," "I will go and offer incense," "Let us go and offer incense;" "I will make libation," "I will go and make libation," "Let us go and make libation"; "I will bow myself down," "I will go and bow myself down," "Let us go and bow ourselves down."

T. X. 11. In the case of any one who is liable to death penalties enjoined in the Law, it is not proper to lie in wait for him except he be a beguiler. How do they lie in wait? Two disciples are stationed in an inner room, while the culprit is in an outer room. A candle is lit and so placed that they can see him as well as hear his voice And so they did to Ben Stada in Lud.[1] These same two disciples are

[1] *Sanh.* 67*a* continues: "Whom they hanged on the eve of the Passover." Ben Stada was the son of Pandera. (Then why is he called the son of Stada?) R. Hisda said: "The husband of his mother was called Stada, and her seducer Pandera." But the husband was known to be Pappus ben Jehuda, and the mother's (real) name Miriam M'gadd'la (the women's hairdresser). And *Stada* was the name applied to her in that *s'tath da*, "she went astray" from her husband." On the identifications arising from this, see R. T. Herford, *Christianity in Talmud and Midrash* (London, 1903), and G. H. Box, *The Virgin Birth of Jesus* (London, 1916), Appendix I.

appointed as witnesses against him, and stone him. T. His case may be begun by day and finished by night; they may begin and end it on the same day, whether he be guilty or not; they may arrive at a verdict by a majority of one whether it be for conviction or acquittal; all may plead for acquittal or all for conviction; one who pleads for acquittal may retract and plead for conviction.[1] The eunuch and the childless can act as judges, and, according to R. Jehuda, even those who are biased in the direction of severity.

XI. 1. As for others liable to death penalties in the court, they can only be condemned at the mouth of witnesses, and even so, only if they have been warned and told that they are liable to the penalty of death in the court. R. Jose, the son of Jehuda, says: "They must also be told what manner of death they will incur." No matter whether all or only some of the witnesses warn him, he is guilty; but R. Jose would acquit unless all his witnesses warn him, for it is written: AT THE MOUTH OF TWO WITNESSES,[2] that is, until two witnesses warn together; though R. Jose allows that if the first witness warned him and then went away, and the second warned him and then went away, the man would be liable to the penalty.

2. If he be warned and answer nothing, or if he be warned and nod his head, or even say, "I know," he cannot be made liable to the death penalty; he is not liable until he say, "I know; but even so I am committing the offence." 3. If, for example, he be seen defiling the Sabbath, and be told, "You must know that it is the Sabbath, and it is written, THOSE WHO DEFILE IT SHALL SURELY BE PUT TO DEATH,"[3] even if he say, "I know," he is free from penalty; he is free until he

[1] Customary rules for capital trials in his case are in abeyance. See *Mishnah* IV. 1; cf. *Tosefta* VII. 2*b*. III. 3.
[2] Deut. 17. 6. [3] Exod. 31. 14.

T. say, "I know; but even so I am committing the offence."

4. Or again, if he be seen slaying a man, and be told, "Know that he is a son of the covenant, and it is written, WHOSO SHEDDETH MAN'S BLOOD, BY MAN SHALL HIS BLOOD BE SHED,"[1] even if he say, "I know," he is free from penalty; he is free until he say, "I know; but even so I am committing the offence."

5*a*. R. Jose said, "If he warn himself, he is free from penalty, for it is written: IF AN UNRIGHTEOUS MAN RISE UP TO TESTIFY AGAINST HIM OF WRONG-DOING,[2] etc.; therefore he should be warned by others, and not by himself."

16. He who leads a Town astray.

M. VII. 10*b*. The one who leads a town astray[3] is he who says outright, "Let us go and worship idols."

T. XI. 5*b*. R. Shimeon the son of Jehuda said in the name of R. Shimeon, "He who leads a town astray is to die by strangulation."[4]

17. The Sorcerer.

M. VII. 11. A sorcerer[5] is the one who accomplishes some deed, not merely deceives the eyes. R.

[1] Gen. 9. 6.

[2] Deut. 19. 16. His testimony is invalid.

[3] Deut. 13. 12 ff. Verse 16 orders that all those who are led astray are to be put to the sword; cf. *Mishnah* X. 7. But since in the case of the *mesith*, "the beguiler" (Deut. 13. 6), who is expressly condemned to be stoned, the word *l'haddiḥ'ka*, "to lead thee astray," is used, stoning must apply to him also, on the principle of *gezera shawa; i.e.* the misleader is to be stoned, and the misled decapitated.

[4] R. Shimeon places such a man in the category of the false prophet, *Mishnah* XI. 5.

[5] Deut. 18. 10; Exod. 22. 18.

Akiba, in the name of R. Jehoshua, said: It is as though two people were picking cucumbers; one was innocent and the other guilty. He who actually did pick was guilty, but he who only appeared to do so was innocent. M.

T. XI. 5*c*. Said R. Akiba: Three hundred *halakoth* used R. Eliezer to expound on THOU SHALT NOT SUFFER A WITCH TO LIVE,[1] but I have only learnt two things from it: two may be gathering cucumbers, of whom the one is innocent and the other guilty; he who actually does the deed is guilty, and he who only appears to do so is innocent.

18. The Stubborn and Rebellious Son.

VIII. 1. At what time can one be deemed a "stubborn and rebellious son"?[2] From the time that he can produce two hairs until the lower beard is encompassed (not the upper one, for the wise men spoke modestly), for it is written: WHEN A MAN HAS A SON; not a daughter, but a son; neither must he be a man; whereas a minor is exempt since he does not come within the scope of the commandments.[3] M.

T. XI. 6*a*. "A stubborn and rebellious son"—there never was and there never will be such. Then why is it written? To teach, "Study and receive the reward."

R. Shimeon, the son of Eleazar, says: It should

[1] Exod. 22. 18. [2] Deut. 21. 18–21.

[3] An Israelite is responsible for observance of the Law only on reaching the age of thirteen years and one day. Cf. *Baba Mesia* 96*a*.

T. say "a daughter" and not "a son";[1] but the decree of the King[2] is: A stubborn and rebellious son.

M. VIII. 2. When does he become guilty? When he eats a *tritimor*[3] of flesh, and drinks a half *log*[4] of Italian[5] wine; or, according to R. Jose, a *manê* of flesh and a *log* of wine. If he consumed it at a religious festival or at the intercalation of the month; if he ate the Second Tithe at Jerusalem;[6] or if he ate carcases,[7] meat torn by beasts,[8] things detestable[9] or crawling;[10] if he ate anything which was according to the requirement of the Law, or anything which was a transgression of the Law; if he ate food which was not flesh, or drank any drink but not wine; he is not thereby a stubborn and rebellious son,—not until he eat flesh and drink wine, for it is said: A GLUTTON (זולל) AND A WINE-SWILLER (וסובא).[11] And though there is no proof of the verbal dependence, it is suggested in[12] BE NOT AMONG THOSE WHO SWILL WINE (בסבאי יין) AND GLUT THEMSELVES WITH FLESH (בזוללי בשר).[13]

[1] *Sanh.* 69*b* (end): "According to reason a daughter should be more open to this charge of being 'stubborn and rebellious' than a son."

[2] Gemara has "Scripture."

[3] Τριτημόριον, a *triens*, in Roman measure one quarter of a *libra*—about three ounces. According to *Yer. Sanh.* VIII. 2, it is half a litre, about six ounces.

[4] Lev. 14. 10. A liquid measure, holding, according to tradition, the contents of six eggs.

[5] So CN. Another reading is, "according to Italian measure."

[6] Cf. Deut. 14. 26.

[7] Cf. Deut. 14. 21.

[8] Cf. Exod. 22. 31.

[9] Cf. Lev. 11. 10 ff.

[10] Cf. Lev. 11. 44 ff.

[11] Deut. 21. 20.

[12] Prov. 23. 20.

[13] For the type of argument, see p. 72, note 6.

T. XI. 6*b*. Even one who furnishes his table as though it were a banquet of Solomon, if it be at its proper season, is not adjudged a stubborn and rebellious son; unless he put in his mouth the (forbidden) amount, or do similarly at a public meal.

VIII. 3. If he steal aught from his father and **M.** eat it in his father's domain; (or anything from others and eat it in his father's domain;) or anything from others and eat it in the others' domain, —he is not a stubborn and rebellious son;—not until he steals what belongs to his father and eats it in another's domain. R. Jose,[1] the son of Jehuda, holds: Not until he steals from his father and from his mother.

4. If his father concur and not his mother, or his mother concur and not his father, he is not a stubborn and rebellious son;—not until they both concur in his condemnation. According to R. Jehuda, if his mother be not suited[2] to his father he cannot become a stubborn and rebellious son. If either of them be maimed in the hands, lame, dumb, blind, or deaf, he cannot become a stubborn and rebellious son, for it is written: THEY SHALL SEIZE HIM—so they must not be maimed in the hands; AND MAKE HIM GO—so they must not be lame; AND SAY—so they must not be dumb; THIS OUR SON—so they must not

[1] R. Jose b. Jehuda (b. Il'ai) lived towards the close of the second century, and was a distinguished contemporary of Rabbi Jehuda ha-Nasi.

[2] *Sanh.* 71*a* explains this: "If she have not the same voice, appearance and stature."

M. be blind; DOES NOT HEAR OUR VOICE—so they must not be deaf.[1]

VIII. 4. If he has been warned in the presence of three witnesses and beaten, and again becomes degenerate, he must be tried by twenty-three judges; but he cannot be stoned unless the first three witnesses are there, for it is written, THIS OUR SON, as if to say, "This is he who was beaten in your presence."

If he escape away before his trial be completed and afterward the lower beard become encompassed, he is free. But if he escape away after his trial is completed and then the lower beard become encompassed, he is liable to the penalty.

5. A stubborn and rebellious son is condemned in view of what he might afterwards become. Let him die innocent and let him not die guilty. For the death of the ungodly is a benefit to them and a benefit to the whole world; but that of the righteous is a misfortune to them and a misfortune to the whole world. When the ungodly indulge in wine and sleep, it is a benefit to them and a benefit to the whole world; but when the righteous so indulge, it is a misfortune to them and a misfortune to the whole world. The isolation of the ungodly is a benefit to them and a benefit to the whole world, but in the case of the righteous it is a misfortune to them and a misfortune to the whole world. The assembling together of the ungodly is a misfortune to them and a misfortune to the whole world; but in the

[1] Deut. 21. 19–20.

case of the righteous it is a benefit to them and a benefit to the whole world. Silence among the ungodly is a misfortune to them and a misfortune to the whole world, but in the case of the righteous it is a benefit to them and a benefit to the whole world.[1] **M.**

T. XI. 7. A stubborn and rebellious son, a defiant elder, a beguiler to idolatry, one who leads a town astray, a false prophet, and perjurers, are not killed at once but brought up to the great court at Jerusalem and kept in prison till a feast and killed at a feast, for it is written: AND ALL THE PEOPLE SHALL HEAR AND FEAR, AND DO NO MORE PRESUMPTUOUSLY,[2]—so R. Meir; but R. Jehuda said to him: "Ought it not then to say, 'All the people shall *see* and fear'? But it is not so written but 'ALL THE PEOPLE SHALL HEAR AND FEAR.' Then why should they postpone such a one's death? Therefore they kill him at once, and write and send everywhere, saying 'The trial of N. has been completed in such and such a court, and N. and N. are his witnesses; such and such has been done to him.'"

8. R. Shimeon, the son of Jehuda, says in the name of Shimeon: Beauty and power and wisdom and wealth and old age and glory and honour and sons, are good for the righteous and good for the whole world; for it is written, OLD AGE IS A CROWN OF GLORY,[3] and CHILDREN'S CHILDREN ARE THE CROWN OF OLD MEN,[4] and THE GLORY OF YOUNG MEN IS THEIR STRENGTH,[5] and BEFORE HIS ELDERS IS HONOUR.[6] R. Shimeon, the son of

[1] Since the one is supposed to be concocting mischief, and the other studying the Law.

[2] Deut. 17. 13.
[3] Prov. 16. 31.
[4] Prov. 17. 6.
[5] Prov. 20. 29.
[6] Isa. 24. 23.

T. Menasia, says, "These seven qualities which the wise have counted among the virtues of the righteous were all exemplified in Rabbi and his sons."

The Housebreaker.

M. VIII. 6. The housebreaker[1] is condemned in view of what he might do afterwards. If in his breaking through he have broken a barrel, where there would be blood-guiltiness[2] (if the householder killed him) he is liable (to payment of compensation); if there would be no blood-guiltiness,[3] he is free (from that liability).

T. XI. 9. The housebreaker, if he come to kill, may be saved (from sin) at the cost of his life; if it be only to seize property, he may not be saved (from sin) at the cost of his life; nor should he be so treated if there is a doubt whether he come to kill or to seize property, for it is written: IF THE SUN BE RISEN UPON HIM, THERE SHALL BE BLOODGUILTINESS FOR HIM.[4] But does the sun rise over him alone and not over all the world? But as at the rising of the sun there is peace over all the world, so, as long as thou knowest that his intentions are peaceful, whether it be day or night, thou mayest not save him (from sin) at the cost of his life.

R. Eliezer,[5] the son of Jacob, said further: If

[1] Exod. 22. 2–4.

[2] That is, by night. The principle here assumed is, that "one who becomes liable to two penalties is to be condemned to the severer one" (cf. *M.* IX. 9); with the corollary that "he who commits a crime which leads to capital punishment is absolved from any payment of money compensation" (*Sanh.* 73*b*). An illustrative case is given in *B. Kama* III. 10: A man who fires his neighbour's corn is liable to compensation; if he have fired it on the Sabbath he is free from the liability of paying compensation for the corn, but he is subject to the death penalty for desecrating the Sabbath.

[3] That is, by day.

[4] Ex. 22. 3.

[5] A contemporary of R. Eliezer b. Hyrcanus. He was considered the authority on the structural details of the Temple.

there were there jugs of wine or oil, and he broke them when he broke through, he is liable to be killed. **T.**

Those who may be killed untried.

VIII. 7. These may be saved (from sin) at the cost of their lives:[1] he who pursues after his fellow to kill him, or after a male, or after a betrothed damsel. But he who pursues after a beast, or he who defiles the Sabbath, or he who commits idolatry, may not be saved (from sin) at the cost of his life. **M.**

T. XI. 10. He who pursues after his fellow (to kill him) may be saved (from sin) at the cost of his life. How do they do this? They wound one of his limbs; and if even so they cannot prevent him, they forthwith kill him.

11. He who pursues after a male, whether it be in a house or the open field, may be saved (from sin) at the cost of his life; if it be after a betrothed damsel, whether in a house or the open field, he may be so killed. If it be a betrothed damsel or any of the prohibited degrees enjoined in the Law, he may be so killed; but if it be a divorced widow of a high-priest, or an ordinary priest's wife who had been subjected to the *ḥaliṣa* ceremony, he may not be saved (from sin) at the cost of his life. R. Jehuda says: Also, should she say, "Let him alone!" he may not be so killed, even though by leaving him alone he commit a capital crime.

R. Eleazar, the son of R. Zadok, says: He who commits idolatry may be saved (from sin) at the cost of his life.

[1] Cases of justifiable homicide.

B.—Those who are Punishable by Burning

M. IX. 1*a*. These are punishable by burning: he who has criminal connexion with a woman and her daughter,[1] and a priest's daughter[2] (who has committed adultery). The term "a woman and her daughter" includes a man's own daughter, his daughter's or son's daughter, his wife's daughter, her daughter's or son's daughter, his mother-in-law, the mother of his father-in-law, and the mother of his mother-in-law.

T. XII. 1. These are they who are to be burnt: he who has criminal connexion with a woman and her daughter, and a priest's daughter who is bound to a husband. Whether a man have criminal connexion with a woman and afterwards with her daughter, or with a daughter first and afterwards with her mother, he is alike guilty.

Although we have no express sanction from Scripture that he is to be burnt who has criminal connexion with the daughter of one who is not his legal wife—the passage in Scripture: And the man who shall take (*i.e.* "marry") a woman and her mother, it is lewdness,[3] dealing with actual marriage—Scripture says: And the daughter of any man (or) priest,[4] to include every case.

2. A betrothed damsel and a priest's daughter who has committed adultery are to be stoned. R. Shimeon says that they are to be burnt.

[1] Lev. 20. 14.
[2] Lev. 21. 9.
[3] Lev. 20. 14.
[4] Lev. 21. 9. The two words *'ish kohen* are regarded not as being in apposition, but descriptive of both classes.

C.—Those who are Punishable by Decapitation

IX. 1*b*. These are punishable by decapitation: **M.** (1) the murderer,[1] and (2) the members of a beguiled city.[2]

(1) The Murderer.

A murderer who has struck his neighbour with iron or stone, or held him down in fire or water so that he could not rise, and he die, is guilty. If he pushed him in water or fire so that he could rise, yet he die, he is innocent. If he incited a dog or snake against the victim, he is innocent. If the snake bit him, R. Jehuda would convict, but the majority acquit.

A murderer who has struck his neighbour with a stone, or with his fist, so that he was expected to die yet afterwards improved, and then grew worse and died, is guilty. R. Nehemia would acquit, since the death may be attributable to other causes.

T. XII. 3. R. Shimeon,[3] the Temanite, says: "As *the fist*[4] with which a murder is alleged to have been committed is such a thing as is known to the judges and witnesses (as being able to produce death), so *the stone*[5] (with which a murder is alleged to have been committed) ought to be subject to examination by the judges and witnesses, unless the stone be lost." R. Akiba said to him: "Supposing that

[1] Numb. 35. 16 ff. [2] Deut. 13. 15.
[3] R. Shimeon, the Temanite, was one of the second generation of the *Tannaim*, *c.* 120 A.D.
[4] Exod. 21. 18. [5] Numb. 35. 17.

T. even the stone were not lost, and it or the weapon be hung up in the court, would the judges know whether the defendant struck the victim on the leg or on 'the bird of life'?[1] Or suppose the victim had been pushed from the top of a tower and he die, could we say, 'Let the tower come to the court'? And even if thou say, 'Let the court go and see the tower,' suppose that it have fallen in the meantime, could we say, 'Let the builders come and build it up again'? In that case what reason would there be to trust in witnesses at all? Therefore, even in capital cases, dependence must be placed on the word of the witnesses."

4*a*. If the stone be mingled with other objects, they decide which of them are harmless; if there be sufficient (stone) to cause death the culprit is guilty, if not he is free. If the missile be such that if it falls into fire it is burnt up, or if into water it dissolves, he is free.

M. IX. 2. The following are innocent: one who intended to kill a beast but killed a man; or a foreigner but killed an Israelite; or a miscarriage but killed a mature birth; one who intended to strike some one on the loins such that a blow on the loins would not kill, but reached the heart in such a way that a blow on the heart would be fatal, and the victim die; or one who intended to strike some one on the heart in such a way that on the heart it would be fatal, but struck him on the loins where it would not be fatal, and yet the victim die; or one who intended to strike an adult with a blow which would not be fatal to an adult but it fell on a child, being such that it would be fatal to a child,

[1] A euphemism; unless, as in the following section of the *Mishnah*, the heart is meant.

and the child die ; or one who intended to strike **M.**
a child with a blow which to a child would be fatal but it fell on an adult, being such as would not be fatal to an adult, and yet the adult die—such a one is innocent.

If one intended to strike a person on the loins with a blow such as would there be fatal, and it fall on his heart, and he die ; or intended to strike an adult with a blow such as to him would be fatal and it fall on a child, and the child die—he is guilty. R. Shimeon holds that even if he intend to kill one man and kill another he is innocent.

> T. XII. 4*b*. If he intended to strike one person and he struck another, R. Jehuda convicts, whereas R. Shimeon acquits. But R. Jehuda admits that if he intended to kill a beast but killed a man ; or a foreigner but killed an Israelite ; or a miscarriage but killed a mature birth,—he is innocent.

IX. 3. If one murderer is associated with others **M.**
they are all free from penalty. R. Jehuda maintains that they are all put together in prison. If a number of offenders are all liable to death, and are associated together, they are to be condemned to the more lenient death ; *e. g.* those liable to stoning are to suffer burning. R. Shimeon maintained that they should be condemned to stoning, since burning is the severer death. But the majority held that he should be condemned to burning, since stoning is the severer death. R. Shimeon maintained that if burning were not the severer death it would not be applied to a priest's daughter who had sinned ; it was replied, that if stoning

M. were not the severer death it would not be applied to blasphemy and idolatry. Further, decapitation is relaxed to strangling; R. Shimeon favoured the sword, but the majority strangling.

> **T.** XII. 5. They who are condemned for crimes punishable by severe deaths, and at the same time for crimes punishable by easier deaths, are to be killed by the easier. R. Jose says strangling is the easiest death. R. Jose said, further, the culprit is condemned for the first crime of which he was guilty. Thus, if a man has had criminal connexion with his mother-in-law, who was likewise a man's wife, if she was in the first instance his mother-in-law and later became a man's wife, he is condemned to burning. If she was in the first instance a man's wife and later became his mother-in-law, he is condemned to strangling.

M. IX. 4. If a man become liable in the court to two death-penalties, he should be condemned to the severer one. If a man commit a transgression for which there are two kinds of death-penalty, he should be condemned to the severer one. R. Jose holds that he should be condemned to the first obligation to which he becomes liable.

> **T.** XII. 6. If a man commit a transgression for which there are two kinds of death-penalty, he should be condemned to the severer one. In the case of any one condemned to death-penalties enjoined in the Law, if thou canst not put him to death by a severer means, put him to death by any means, be it severe or easy, for it is written: AND THOU SHALT EXTERMINATE THE EVIL FROM THY MIDST.[1]

M. IX. 5. If a man has been scourged, and then scourged a second time in the court, he is taken

[1] Deut. 17. 7.

to prison and fed with barley till his belly bursts. **M.** If a man has committed murder, and there be no witnesses, he is taken to prison and fed with the BREAD OF ANGUISH AND WATER OF AFFLICTION.[1]

> **T.** XII. 7. If a man about to commit a crime be warned and he keep silent, or if, when he is warned, he shake his head, they are to warn him a first time and a second time, and the third time to take him to prison. Abba Shaul says: He is warned a third time; and on the fourth is taken to prison and fed with BREAD OF ANGUISH AND WATER OF AFFLICTION. In the same way, they who have been found guilty and condemned to scourging, and have repeated the offence and been scourged a second time, on the third occasion are to be taken to prison. Abba Shaul says: They are scourged a third time, and on the fourth occasion they are taken to prison and fed with barley till their belly bursts.

Irregular Justice.

IX. 6. If any one steal a sacred vessel, or curse **M.** by *Kosem*,[2] or marry a heathen woman,[3] zealous people may attack them. If a priest minister in an unclean condition,[4] his brother priests do not bring him to the court, but the young attendant priests take him outside the courtyard and break open his brain with clubs. If a stranger serve in

[1] Isa. 30. 20.

[2] Meaning uncertain. The majority of Jewish commentators treat as the name of an idol. A possible interpretation is, that it is an abbreviation of some transliterated unorthodox divine name, such as, for example, κοσμοπλάστης, or a disguised form of the Tetragrammaton. The criminal is then the blasphemer who utters the name "under a pseudonym" (*Sanh.* VII. 5). Although he cannot be legally stoned, he may become the object of irregular justice.

[3] On the ground of Numb. 25. 6–15.

[4] Legally, (*Makkoth* III. 2), he can only be punished by scourging.

M. the Temple, R. Akiba says he is to be strangled, but the majority hold that he is to be left in the hands of Heaven.[1]

[AN INTERPOLATED SECTION.]*

Those Who have no Share in the World to Come.

X. 1. These are they who have no share in the world to come :[2] who say there is no resurrection of the dead ;[3] that the Law is not from Heaven ; and the Epicureans.[4] R. Akiba adds : He who reads the external books ;[5] and he who whispers over a wound, saying : ALL THE SICKNESS WHICH I BROUGHT ON EGYPT I WILL NOT BRING UPON THEE,[6] etc. Abba Shaul adds : He who pronounces the Name with its proper letters.[7]

T. XII. 9. To these they added : they who break the yoke and violate the covenant,[8] or misinterpret

[1] See Josephus, *Bell.* VI. ii. 4 ; V. v. 2 ; *Ant.* XV. xi. 5 ; from which it is to be gathered that the Romans recognized that the Jews could put intruders to death. The well-known Temple barrier inscription discovered in 1871 reads : "No man of another nation to enter within the fence and enclosure round the Temple ; and whoever is caught will have himself to blame that his death follows." Cf. J. Armitage Robinson, *St. Paul's Epistle to the Ephesians*, p. 160.

* See Introduction, p. viii, n. 2.

[2] Most codices, excepting C and K add : "All Israel have a share in the world to come, as it is written, And thy people are all of them righteous ; they shall inherit the earth for ever" (Isa. 60. 21).

[3] Cf. Mark. 12. 18 ; Acts 23. 8.

[4] An epithet constantly applied to those, Jews and Gentiles alike, who come into opposition with Rabbinical standpoints. The word probably owes its popularity and frequency as a term of abuse, not to a widespread knowledge and practice of Epicurean teachings, so much as to the word-play on the root *paḳar*, "be free from restraint, licentious, sceptical."

[5] Books excluded from the Hebrew Canon ; in spite of R. Akiba's dictum, Ben Sira is sometimes quoted in Talmud and other rabbinical literature.

[6] Exod. 15. 26.

[7] See *Mishnah* VII. 5.

[8] Cf. Deut. 31. 16.

the Law, or pronounce the Name with its proper letters,[1] have no share in the world to come. (10) R. Akiba says: He who, at a banquet, renders the Song of Songs in a sing-song way, turning it into a common ditty, has no share in the world to come. Abba Shaul, in the name of R. Akiba, says: He also who whispers over a wound, "It is written, AND ALL THE SICKNESS WHICH I BROUGHT UPON EGYPT I WILL NOT BRING UPON THEE," and spits,[2] has no share in the world to come. **T.**

X. 2. Three kings and four commoners have no share in the world to come. The three kings are Jeroboam, Ahab, and Manasseh. R. Jehuda holds that Manasseh has a share in the world to come, for it is written: HE PRAYED AND MADE SUPPLICATION, AND HE HEARD HIS PRAYER AND BROUGHT HIM BACK TO HIS KINGDOM AT JERUSALEM.[3] They replied: He was restored to his kingdom but not to life in the world to come. The four commoners are Balaam, Doeg, Ahithophel, and Gehazi. **M.**

T. XII. 11. Four kings, Jeroboam, Ahab, Ahaz, and Manasseh have no share in the world to come. R. Jehuda says: Manasseh has a share in the world to come, for it is written: HIS PRAYER ALSO, AND HOW GOD WAS ENTREATED OF HIM, AND ALL HIS SIN AND HIS TRESPASS, AND THE PLACE WHEREIN HE BUILT HIGH PLACES, AND SET UP THE ASHERIM AND THE GRAVEN IMAGES, BEFORE HE HUMBLED HIMSELF, BEHOLD THEY ARE WRITTEN IN THE BOOK OF HOZEH[4] —showing that God received his supplication and brought him to the life of the world to come.

T. XIII. 1. Those under age,[5] the children of the

[1] See note on *M.* VII. 5.
[2] Cf. Mark 7. 33; 8. 23.
[3] 2. Chron. 33. 13.
[4] 2. Chron. 33. 19.
[5] Not yet thirteen years and a day old.

T. wicked in the land (of Israel) have no share in the world to come, for it is written: BEHOLD, THE DAY COMETH, BURNING LIKE A FURNACE; AND ALL THE PROUD AND ALL THAT WORK WICKEDNESS SHALL BE AS STUBBLE[1]—so Rabban Gamaliel; but R. Jehoshua says: They shall come to the world to come, for it says in one place, THE LORD PRESERVETH THE SIMPLE;[2] and in another, HEW DOWN THE TREE AND DESTROY IT, NEVERTHELESS LEAVE THE STUMP OF THE ROOTS THEREOF IN THE EARTH.[3] Rabban Gamaliel replied: I bring forward on behalf of my view, HE SHALL LEAVE TO THEM NEITHER ROOT NOR BRANCH;[4] which means that the Almighty will not leave a meritorious deed, or parts of a meritorious deed (to be rewarded in a future life) to them or to their fathers for ever. And another explanation is; ROOT means the soul, and BRANCH means the body.

2. The children of the wicked among the heathen shall not live (in the world to come), nor shall they be judged. But R. Eliezer holds: None of the heathen has any share in the world to come, for it is written: THE WICKED SHALL RETURN TO *SHEOL*, ALL THE HEATHEN THAT FORGET GOD.[5] "THE WICKED SHALL RETURN TO *SHEOL*,"—these are the wicked in Israel; "ALL THE HEATHEN THAT FORGET GOD,"—these are the wicked among the heathen. R. Jehoshua said to him, "If Scripture had said: THE WICKED SHALL RETURN TO *SHEOL*, ALL THE HEATHEN, and then said no more, I should have spoken according to thy words; but since Scripture says: WHO FORGET GOD, behold there must be righteous men among the heathen who have a share in the world to come."

3. The School of Shammai[6] say: There are three classes; one for EVERLASTING LIFE, another for

[1] Mal. 4. 1.
[2] Psalm 116. 6.
[3] Dan. 4. 23.
[4] Mal. 4. 1.
[5] Psalm 9. 17.
[6] See note on *Tosefta* VII. 1.

SHAME AND EVERLASTING CONTEMPT[1]—who are accounted wholly wicked, and a third class who go down to Gehenna, where they scream and again come up and receive healing, as it is written: AND I WILL BRING THE THIRD PART THROUGH THE FIRE, AND WILL REFINE THEM AS SILVER IS REFINED, AND WILL TRY THEM AS GOLD IS TRIED; AND THEY SHALL CALL ON MY NAME AND I WILL BE THEIR GOD.[2] And of these last Hannah said: THE LORD KILLETH AND THE LORD MAKETH ALIVE, HE BRINGETH DOWN TO *SHEOL* AND BRINGETH UP.[3] T.

The School of Hillel say: HE IS *GREAT* IN MERCY,[4] that is, He leans in the direction of mercy; and of them David said: I AM WELL PLEASED THAT THE LORD HATH HEARD THE VOICE OF MY PRAYER,[5] etc.; and of them, the whole psalm is written.

4. The transgressors of Israel and the transgressors of the heathen who are in the world go down to Gehenna with their bodies, and are judged there for twelve months; after twelve months their souls are destroyed and their bodies burnt; Gehenna casts them forth and they become dust; the wind blows them about and scatters them under the soles of the feet of the righteous, as it is written: AND YE SHALL TREAD DOWN THE WICKED, FOR THEY SHALL BE DUST UNDER THE SOLES OF THE FEET OF THE RIGHTEOUS IN THE DAY THAT I DO THIS, SAITH THE LORD OF HOSTS.[6] But the heretics and renegades and traitors and Epicureans, and those who denied the Law, or separated themselves from the ways of the congregation, or denied the resurrection of the dead, and all who sinned and caused the many to sin, like Jeroboam and Ahab, and who set their dead in the land of the living, and stretched

[1] Dan. 12. 2.
[2] Zech. 13. 9.
[3] 1 Sam. 2. 6.
[4] Exod. 34. 6.
[5] Psalm 116. 1. See especially vv. 3–4.
[6] Mal. 4. 3.

T. out their hands against the Temple,[1] Gehenna is shut up after them, and they are condemned in it for ever; for it is written: AND THEY SHALL GO FORTH AND LOOK ON THE CORPSES OF THE MEN WHO WERE TRANSGRESSORS AGAINST ME. FOR THEIR WORM DIETH NOT, AND THEIR FIRE IS NOT QUENCHED. AND THEY SHALL BE AN ABHORRING UNTO ALL FLESH.[2] *Sheol* wastes away, but they do not waste away, for it is written: AND THEIR FORM SHALL CAUSE *SHEOL* TO PASS AWAY.[3] What brought this upon them? Because they stretched out their hands against the Temple,[1] as it is written: BECAUSE OF HIS TEMPLE;[1] and *ZEBUL* means nothing else than "Temple," for it is written: I HAVE SURELY BUILT THEE A *BETH ZEBUL*, A PLACE FOR THEE TO DWELL IN FOR EVER.[4]

M. X. 3*a*. The Generation of the Flood have no share in the world to come, nor shall they stand in the judgment, for it is written:[5] MY SPIRIT SHALL NOT JUDGE[6] WITH MAN FOR EVER.[7]

T. XIII. 6. The Generation of the Flood have no share in the world to come, nor shall they live in the world to come, for it is written: AND HE DESTROYED EVERY LIVING THING THAT WAS UPON THE FACE OF THE EARTH,[8]—that is in this world;

[1] Not the usual word for Temple, but *zebul*, "lofty habitation."
[2] Isa. 66. 24. [3] Psalm 49. 14.
[4] 1 Kings 8. 13. [5] Gen. 6. 3.
[6] *Lo yadon*,—the meaning is uncertain. It is here given a double meaning, "shall not judge" and "shall not continue"; therefore if God's spirit does not continue in them for ever, they can have no life hereafter. Editions based on the Bomberg text add the explanatory gloss, "Neither judgment nor spirit."
[7] Bomberg text adds the paragraph: The Generation of the Dispersion (Gen. 11. 8–9) have no share in the world to come, as it is written: "And God scattered them abroad,"—in this world, "and from thence God scattered them abroad,"—in the world to come.
[8] Gen. 7. 23.

AND THEY PERISHED FROM THE EARTH,—that is in the world to come. **T.**

R. Jehuda,[1] the son of Bethyra, says: AND THE LORD SAID, MY SPIRIT SHALL NOT JUDGE WITH MAN FOR EVER;[2] that is, "There will be no judgment, nor shall My spirit be in thee for ever."

Another explanation: AND THE LORD SAID: *LO YADON*. The Almighty says, "I will not suffer their soul to return to its *case*."[3]

R. Menahem,[4] the son of R. Jose says: SHALL NOT JUDGE;—the Almighty means, "I shall not judge them when I recompense a good reward to the righteous;" for the fate of the spirits of the wicked is sorer than that of all others, for it is written: THEIR SPIRIT IS A FIRE CONSUMING THEM.[5]

7. The Generation of the Tower of Babel have no share in the world to come, nor shall they live in the world to come, for it is written:[6] THEN THE LORD SCATTERED THEM ABROAD FROM THENCE UPON THE FACE OF THE WHOLE EARTH,—that is, in this world; AND THEY LEFT OFF TO BUILD THE CITY,—that is, in the world to come.

X. 3*b*. The men of Sodom have no share in the world to come,[7] but they shall stand in the judgment, for it is written: AND THE MEN OF SODOM WERE EVIL AND WICKED.[8] R. Nehemia says, Neither the Generation of the Flood nor the men of Sodom shall stand in the judgment, for it is **M.**

[1] R. Jehuda *b.* Bethyra, *c.* 90–130 A.D., was a notable teacher in Nisibis, in Mesopotamia.

[2] Gen. 6. 3.

[3] Playing on the word *neden*.

[4] R. Menahem b. Jose was a son of R. Jose b. Halafta, and lived towards the end of the second century A.D.

[5] Isaiah 33. 11.

[6] Gen. 11. 8.

[7] Bomberg text adds: As it is written [Gen. 13. 13]: "And the men of Sodom were evil and wicked exceedingly in the sight of the Lord,"—*evil* in this world, and *wicked* with respect to the world to come.

[8] Gen. 13. 13. C by error repeats quotation from Gen. 6. 3.

M. written: THEREFORE THE UNGODLY SHALL NOT STAND IN THE JUDGMENT,[1]—this is the Generation of the Flood; NOR THE EVIL IN THE CONGREGATION OF THE RIGHTEOUS,—these are the men of Sodom. To this it was answered, "They shall not stand in the congregation of the righteous, but they shall stand in the congregation of the ungodly." [2]

T. XIII. 8. The men of Sodom have no share in the world to come, nor shall they live in the world to come, for it is written: AND THE MEN OF SODOM WERE EVIL AND WICKED,[3]—in this world; AGAINST THE LORD, EXCEEDINGLY,—in the world to come.

Another explanation: EVIL—each against his neighbour, AND WICKED—in obscenity, AGAINST THE LORD—in idolatry, EXCEEDINGLY—in shedding blood.

9*a*. The spies have no share in the world to come, for it is written: NEITHER SHALL ANY OF THEM THAT DESPISED ME SEE IT.[4]

M. X. 3*c*. The Generation of the Wilderness have no share in the world to come, nor shall they stand in the judgment, for it is written: THEY SHALL COME TO AN END IN THE WILDERNESS AND THERE THEY SHALL DIE,[5]—so R. Akiba; but

[1] Psalm 1. 5.

[2] That is, they shall stand in the judgment. The men of Sodom are called *evil*, hence they cannot be among the "congregation of the righteous," *i. e.* in the world to come; yet they are not called *ungodly* (*rashā'im*), but only *wicked* (*ra'im*): therefore Psalm 1. 5 does not exclude them from the judgment.

Bomberg text adds: The spies have no share in the world to come, as it is written (Numb. 14. 37): "And the men who brought an evil report of the land died by the plague before the Lord." *They died*—in this world; *by the plague*—in the world to come.

[3] Gen. 13. 13.

[4] Numb. 14. 23.

[5] Numb. 14. 35.

R. Eleazar says, It is said of them: GATHER TOGETHER MY HOLY ONES, WHO MADE A COVENANT WITH ME BY SACRIFICE.[1] **M.**

The company of Korah are not destined to rise, for it is written: THE EARTH COVERED THEM AND THEY PERISHED FROM THE CONGREGATION,[2] —so R. Akiba; but R. Eleazar says, It is said of them: THE LORD KILLETH AND MAKETH ALIVE, HE BRINGETH DOWN TO *SHEOL* AND BRINGETH UP.[3]

T. XIII. 9*b*. Korah and his company have no share in the world to come, nor shall they live in the world to come, for it is written: THE EARTH COVERED THEM,—in this world; AND THEY PERISHED FROM THE CONGREGATION,—in the world to come, —so R. Akiba; but R. Jehuda, the son of Bethyra, says, They will reach the world to come, for of them it is written: I HAVE GONE ASTRAY LIKE A PERISHING SHEEP; SEEK THY SERVANT.[4] We find *perishing* spoken of here, and also in the case of Korah and his company; as in the *perishing* spoken of in the one place, that which is *perishing* is being sought: so in the *perishing* spoken of in the other place, that which is *perishing* is likewise being sought.

10. The Generation of the Wilderness have no share in the world to come, nor shall they live in the world to come, for it is written: OF THEM I SWARE IN MY WRATH THAT THEY SHOULD NOT ENTER INTO MY REST,[5]—so R. Akiba; but R. Eleazar says, They will reach the world to come, for of them David says: GATHER MY HOLY ONES TOGETHER, THEY WHO MADE A COVENANT WITH ME BY SACRIFICE.[6] (11) What does Scripture mean by "I SWARE IN MY WRATH"? It was in my wrath that I

[1] Psalm 50. 5. [2] Numb. 16. 33. [3] 1 Sam. 2. 6.
[4] Psalm 119. 176. [5] Psalm 95. 11. [6] Psalm 50. 5.

T. sware, but I am repenting. R. Jehoshua, the son of Karha, says, These words were said concerning the future generations, for it is written: GATHER MY HOLY ONES TOGETHER—because they did with me deeds of love; THEY WHO MADE (*lit.* "cut") A COVENANT WITH ME—because they were cut for my sake; WITH SACRIFICE—because they exalted me and were slain for my sake.

R. Shimeon, the son of Menasia, says: The generation of the wilderness will reach the world to come, for of them it is written: AND THE REDEEMED OF THE LORD SHALL RETURN AND COME TO ZION WITH GLADNESS.[1]

M. X. 3*d*. The Ten Tribes are not to return, for it is written: AND HE CAST THEM FORTH INTO ANOTHER LAND LIKE (AS TO) THIS DAY.[2] As a day goes and does not return, so they go and do not return,—so R. Akiba; but R. Eleazar says, "As a day darkens and then becomes light, so they, after being in darkness, shall then have light."

T. XIII. 12. The Ten Tribes have no share in the world to come, nor shall they live in the world to come, for it is written: AND THE LORD DROVE THEM OUT FROM THEIR LAND WITH ANGER AND HEAT AND GREAT WRATH,—in this world; AND CAST THEM FORTH UNTO ANOTHER LAND,—in the world to come. R. Shimeon, the son of Jehuda, of Kephar-Akkos, says: It is likewise written, LIKE (AS AT) THIS DAY; therefore if their deeds are "like as at this day," they will not reach the world to come; but if they are not, they will reach it.

Rabbi says, Both of them shall have a share in

[1] Isa. 35. 10. Deut. 29. 28.

the world to come, for it is written: AND IT SHALL COME TO PASS IN THAT DAY THAT THOSE WHO ARE PERISHING IN THE LAND OF ASSHUR, AND THOSE WHO ARE DRIVEN AWAY INTO THE LAND OF EGYPT, SHALL COME AND WORSHIP THE LORD IN THE HOLY MOUNTAIN IN JERUSALEM.[1] **T.**

THOSE PUNISHABLE BY DECAPITATION (*continued*)

(2) The Members of a Beguiled City.

X. 4. The members of a beguiled city,[2]—as it is written: THERE SHALL GO FORTH FROM THY MIDST MEN, SONS OF BELIAL, AND THEY SHALL BEGUILE THE INHABITANTS OF THEIR TOWN;[3]— these are not slain unless the beguilers are from the same town, and unless the majority are beguiled. Also, the beguilers must be men. If they be women or children,[4] or come from outside of the town, those who have been beguiled must be regarded as single offenders needing two witnesses, and every offender must receive the legal warning. The punishment is more severe in the case of individuals than in that of multitudes: for individuals are liable to stoning, so that their property is not confiscate; whereas multitudes suffer (only) from the sword, and therefore their property is confiscate. **M.**

[1] Isa. 27. 13.

[2] Bomberg text adds "have no share in the world to come," wrongly assimilating the section to the preceding paragraphs. The *Mishnah* here takes up the second head announced for treatment in *M.* IX. 1*b* (p. 125). Cf. Introduction, p. viii, n. 2.

[3] Deut. 13. 13.

[4] All, except C, here add: "or if only a minority be beguiled."

M. 5. THOU SHALT SMITE THE PEOPLE OF THAT CITY WITH THE SWORD; but an ass or camel caravan passing through from place to place—such are to be set free.[1] UTTERLY DESTROY IT, AND ALL THAT IS IN IT, AND ITS BEASTS, WITH THE SWORD; therefore they have said that the goods of the righteous in it are lost, but what is outside is saved; whereas that of the wicked, inside or outside, is lost.

T. XIV. 1. "A beguiled city": there never was, and never will be, such; then why is it contained in Scripture? To teach, "Study and receive the reward."

Three places in Israel cannot at the same time be adjudged "beguiled cities," lest the land of Israel be destroyed; but only one or two (at one time). R. Shimeon says: Not even two (together), but only one in Judæa and one in Galilee. On the frontier even a single town cannot be so condemned, lest the heathen break through and destroy the land of Israel.

When the heavier penalty[2] falls on the men of a beguiled city, a lighter penalty falls on their property and the city; and when the lighter penalty falls on the men of a beguiled city, a heavier penalty falls on their property and the city. For when they are to be stoned, their property and the

[1] This is the preferable reading. Another reading: "These may save it [*i.e.* the town]" is found in C and the Bomberg text; this has to be explained as meaning that the passers-by, being temporarily members of the city, and remaining (so we have to take for granted) unbeguiled, help to make the unbeguiled a majority; in which case the place is no longer a beguiled city. The beguiled minority will then be classed as individual idolators, subject to the penalty of stoning.

[2] See *Mishnah* VII. 1.; stoning is first and slaying by the sword (decapitation) third in order of severity; see also previous note.

city are not destroyed; but when they are to be slain by the sword, their property and the city are to be destroyed. T.

2. If a caravan of asses or camels, going from place to place, lodge in the midst of the town, and are beguiled together with it, they are to die by the sword, and their property and the city are to be destroyed.[1] If they have not delayed thirty days, they are to be stoned[2] and their property and the city are not to be destroyed. In every case, those who beguile the city are to be stoned,[3] and their property and the city are to be destroyed.[4]

If women and not men, or minors and not those of full age have beguiled the city, can it be (properly) a beguiled city? Scripture says: THE INHABITANTS OF THEIR TOWN;—the matter deals with "the inhabitants" of their city, and not with any of these.

3. Those under age, the children of the men of the beguiled city, who have been beguiled with it, are not to be slain; but R. Eliezer says that they are to be slain. R. Akiba said to him: I argue from: HE WILL SHOW THEE MERCY, AND HAVE COMPASSION UPON THEE AND MULTIPLY THEE.[5] If to shew mercy to those who are of age it is said: THOU SHALT SURELY SMITE;[6] and if to show mercy to the beasts it is said, UTTERLY DESTROY IT AND ALL THAT IS THEREIN AND ITS BEASTS;[6] I maintain that the words, AND HE WILL SHOW THEE MERCY, must refer to those in the city who are under age.

R. Eliezer says: Even those who are of age are not slain except at the mouth of witnesses and

[1] The Erfurt MS. adds: "And if they delayed thirty days they are to die by the sword and their property and the city are to be destroyed."

[2] Erfurt MS.: "die by the sword."

[3] In accordance with *M.* VII. 10*b*.

[4] Erfurt MS. adds: "If women and those under age have beguiled it, they are to die by the sword, and their property and the city are not to be destroyed."

[5] Deut. 13. 17. [6] Deut. 13. 15.

T. after the legal warning. And I argue that the purpose of AND HE WILL SHOW THEE MERCY is lest the judges say, "If we adjudge this to be a beguiled city, to-morrow the brethren and the neighbours of those who have been condemned will preserve hatred in their hearts against us." But thus saith the Almighty: Behold, I will cause them to have mercy and to bear my love in their hearts, so that they shall say, "We have naught against you in our hearts, for ye have uttered a true judgment."

And the friends of the dead do not make (open) lamentation: they mourn, but only in their hearts.

4. The property of the righteous that is in the city is lost, but what is outside escapes; while that of the wicked both within and without is lost. R. Eliezer says, "This is illustrated by the instance of Lot. He was in Sodom only for the sake of his property, yet he left the town empty-handed, as it is written: ESCAPE THITHER IN HASTE,[1] as if to say "Let it suffice thee that thou escape with thy life." Said R. Shimeon: Why is it said, "The property of the righteous that is therein is lost"? Because it is the property of the righteous which makes them dwell among the ungodly. And is it not an example of the *a fortiori* argument? If mere property, which cannot hear or see or speak, is condemned by the Almighty to be burnt because it makes the righteous live among the ungodly, much more ought the man to be burnt who turns away his fellow from the way of life to the way of death.

M. X. 6*a*. ALL THE SPOIL THEREOF THOU SHALT GATHER INTO THE MIDST OF THE MARKET-PLACE[2]; if it have no market-place they must make one. If the market-place is outside, they

[1] Gen. 19. 22. [2] Deut. 13. 16.

bring it inside, for it is written: INTO THE MIDST (OF) ITS MARKET-PLACE. **M.**

AND THOU SHALT BURN THE WHOLE CITY AND ALL ITS SPOIL WITH FIRE; *its* spoil, but not spoil belonging to Heaven. Therefore the holy things in it are redeemed,[1] the heave-offerings allowed to rot, and the Second Tithe and the Scriptures stored away.[2]

T. XIV. 5. Offerings intended for the altar shall die, but those for the Temple repairs are to be redeemed. R. Shimeon says: *ITS* CATTLE excludes the firstborn of cattle, and the tithes; and *ITS* SPOIL excludes money belonging to the Temple or the money for the Second Tithe.[3] What is immovable, whether holy or not holy, is not to be destroyed, for it is said, THOU SHALT GATHER, thus excluding what is immovable. But in the other city (*i.e.* Jericho)[4] everything, whether immovable or not, was destroyed.

X. 6*b*. A WHOLE OFFERING TO THE LORD THY GOD; R. Shimeon said: ("It is as if God said:) When you exercise judgment in a beguiled city, I will consider it as though you offer me a whole offering." AND IT SHALL BE A PERPETUAL HEAP AND SHALL NEVER AGAIN BE BUILT UPON;—you may not even make gardens or parks,—so R. Jose the Galilæan; but R. Akiba says: AND SHALL NEVER AGAIN BE BUILT UPON, means that it shall **M.**

[1] Cf. Lev. 27. 30.

[2] They are too sacred to destroy; therefore they are buried to preserve them from any sacrilegious use.

[3] See note on *Mishnah* I. 3.

[4] Jericho is regarded as an historical example of a "beguiled city."

M. not be built as it was before; but gardens and parks may be made of it.

THOU SHALT KEEP NAUGHT OF THE ACCURSED THING, THAT THE LORD MAY TURN FROM THE HEAT OF HIS WRATH AND SHOW THEE MERCY AND KINDNESS AND INCREASE THEE;—the whole time that the ungodly is in the world, the HEAT OF WRATH is in the world; when the ungodly is perished from the world, the HEAT OF WRATH is taken from the world.

T. XIV. 6. If they slay the men, and burn the clothing, and hamstring the cattle (is this according to the Law?)[1] R. Meir says, "Where it is customary to destroy by shedding blood, you shed blood; where it is by burning, you burn; and where by hamstringing, you hamstring."

A man is not put to death by means of arrows or spears, and not with the point of the sword but with its edge, as it is written: WITH THE EDGE OF THE SWORD.[2]

AND IT SHALL BE A PERPETUAL HEAP, AND SHALL NO MORE BE BUILT;[3]—they shall not even make it into gardens or parks,—so R. Jose the Galilæan; but R. Akiba says: IT SHALL NO MORE BE BUILT, that is, in the form that it was before it shall not be built up; but it may be made into gardens and parks.

AND IT SHALL BE A PERPETUAL HEAP, as it was in the days of Joshua. R. Jose and R. Jehoshua, the son of Karha, say: Behold it says, CURSED IS THE MAN BEFORE THE LORD WHO SHALL RISE AND BUILD THIS CITY, JERICHO;[4] but do we not know

[1] Because Josh. 6. 21 says, "They utterly destroyed all . . . with the edge of the sword"; and v. 24, "and they burnt the city with fire and all that was therein."
[2] Deut. 13. 15.
[3] Deut. 13. 16.
[4] Josh. 6. 26.

that Jericho is now there? The command was that it should not be rebuilt and called by the name of another city; and that another city should not be built and called by the name of Jericho. T.

7. WITH THE LOSS OF HIS FIRSTBORN SHALL HE LAY THE FOUNDATION THEREOF, AND WITH THE LOSS OF HIS YOUNGEST SON SHALL HE SET UP THE GATES THEREOF;[1] and so it says: IN HIS DAYS DID HIEL THE BETHELITE BUILD JERICHO.[2] But did not Hiel belong to the kingdom of Jehoshaphat,[3] and was not Jericho in the district of Benjamin?[4] Then why is the matter connected with Ahab?[5] To teach that guilt is connected with him who is guilty. 8. Similarly it is written: AND JONATHAN THE SON OF GERSHOM THE SON OF MANASSEH.[6] But was he the son of Manasseh? Was he not the son of Moses?[7] Then why is the matter connected with Manasseh? To teach that guilt is connected with him who is guilty. 9. WITH THE LOSS OF ABIRAM HIS FIRSTBORN HE LAID THE FOUNDATION THEREOF, AND WITH THE LOSS OF SEGUB HIS YOUNGEST SON HE SET UP THE GATES THEREOF. In the case of Abiram, (Hiel) had no warning from which to learn;[8] but in the case of Segub, the wicked man had such a warning. But they sought to increase their wealth. Why? Because a curse rested on them, so that they continually decreased, as Scripture says, ACCORDING TO THE WORD OF THE LORD WHICH HE SPAKE BY THE HAND OF JOSHUA THE SON OF NUN.[9]

10. R. Shimeon, the son of Eleazar, says: He did not build the old Jericho, but another one; and

[1] 1 Kings 16. 34.
[2] As a native of Bethel.
[3] Josh. 6. 26.
[4] Josh. 18. 21.
[5] Given in the list of Ahab's misdoings.
[6] Judges 18. 30. R.V. and R.V. mg.
[7] Exod. 18. 3.
[8] Until Abiram was killed Hiel might be presumed ignorant of the prohibition laid on building Jericho.
[9] 1 Kings 16. 34.

T. after it was built he was allowed to inhabit it, for it is said: AND THE SONS OF THE PROPHETS WHICH WERE IN JERICHO DREW NEAR TO ELISHA.[1] Therefore it is not possible for the court to say, "We are condemning a place as a beguiled city, and so destroying the land of Israel"; [2] but as there is joy in the presence of the Almighty at the continuance of the righteous, so there is joy in the presence of the Almighty at the destruction of the wicked, as it is written: WHEN THE WICKED PERISH, THERE IS REJOICING.[3]

11. Whatsoever is left of a beguiled city and its inhabitants, together with the fruits, or any idol pedestal and what is on it, a *merkolis*[4] and what is on it, or anything to which the prohibitions[5] dealing with idolatry apply, is forbidden, and no benefit may be derived from it.

D.—THOSE WHO ARE PUNISHABLE BY STRANGULATION

M. XI. 1. These are they who are to be strangled: (1) He who strikes his father or mother; (2) he who steals a soul from Israel; (3) an elder who defies the court; (4) a false prophet; (5) one who prophesies in the name of a false god; (6) an adulterer; and (7) those who falsely accuse a priest's daughter and her paramour.

(1) Who strikes his Father or Mother.

He who strikes his father or mother[6] is not guilty till he bruise them. Cursing is more serious

[1] 2 Kings 2. 5; showing that people lived in Jericho shortly after the time of Hiel.

[2] Since the case of Jericho is evidence that a condemned "beguiled city" may be rebuilt.

[3] Prov. 10. 11.

[4] See *Mishnah* VII. 6.

[5] Detailed in *Mishnah Aboda Zara*.

[6] Exod. 21. 15.

than striking: for he who curses after death is guilty, while he who strikes after death is free from penalty. **M.**

(2) Who steals a Soul from Israel.

He who steals a soul from Israel is not guilty till he bring it into his own domain and make use of it, as it is written: AND TREAT HIM AS A SLAVE AND SELL HIM.[1] If a man steal his own son, R. Johanan, the son of Beruka,[2] convicts, but the majority acquit. If one steal a man who is half free and half a slave,[3] R. Jehuda convicts, but the majority acquit.

(3) The Elder who defies the Court.

2. "The elder who defies the court:" it is written, IF A MATTER BE TOO DIFFICULT FOR THEE TO JUDGE, BETWEEN BLOOD AND BLOOD, AND BETWEEN PLEA AND PLEA,[4] etc. There were three courts: one at the gate of the Temple yard, one at the door of the Temple Mount, and one in the Hewn Chamber. They come to the court at the gate of the Temple Mount, and he (the accused elder) says, "Thus have I expounded, and thus have my colleagues expounded; such and such have I pleaded, and such and such have my colleagues pleaded."[5] Then if they (of the

[1] Deut. 24. 7.
[2] R. Jochanan b. Beruka, a pupil of Jehoshua b. Hanania, and a prominent authority on marriage laws.
[3] One who has paid his master half the amount necessary for purchasing his freedom.
[4] Deut. 17. 8–13.
[5] The whole of this sentence has dropped out of C by error.

M. court of the Temple Mount) had heard any tradition (bearing on the point) they told it. If not, they come to the court which is at the gate of the Temple yard, and he (the aforesaid elder) says, "Thus have I expounded, and thus have my colleagues expounded; such and such have I pleaded, and such and such have my colleagues pleaded." Then if they (of the gate of the Temple yard) had any tradition, they told it. If not, both courts went to the Great Court in the Hewn Chamber, whence the Law goes out to all Israel, as it is written, FROM THAT PLACE WHICH THE LORD SHALL CHOOSE.[1] Then, if the accused elder return to his city, and expound and plead as as he was wont to teach,[2] he is innocent; but if he direct the judgment to be carried out, he is guilty, for it is written, THE MAN THAT DOETH PRESUMPTUOUSLY,[3] etc.;—he is not guilty until he direct the carrying out of the judgment. A mere disciple[4] who should direct the carrying out of the judgment is innocent; hence what appears to be severity against him is found to be leniency.

3. It is more serious to offend against decrees of the Scribes than against decrees of the Law.[5] One

[1] Deut. 17. 10.

[2] Not in accordance with the instructions of the supreme Sanhedrin. The mere teaching does not carry with it criminal liability.

[3] Deut. 17. 12.

[4] One who has not been co-opted to any court as judge, and has, therefore, no right to utter decisions, much less to carry them into practice. Though this may be a disability, the fact that he cannot suffer the penalty of the defiant elder must be regarded as a counterbalancing gain.

[5] Because, to decide a matter in opposition to the written Law carries with it its own condemnation; whereas, to oppose the oral

who says, "There should be no phylacteries," **M.** thereby transgressing against the words of the Law,[1] is innocent; but he who says, "There should be five[2] passages of Scripture in them," adding to what the Scribes ordain, is guilty.

The defiant elder was not put to death by the court of his own city nor by that in Jabne, but was brought up to the Great Court in Jerusalem, kept in prison till a festival, and put to death on a festival, for it is written, ALL THE PEOPLE SHALL HEAR AND FEAR,[3]—so R. Akiba; but R. Jehuda says, "His case should not be delayed,[4] but he should be put to death at once, while they write, despatching the news everywhere: N. son of N. has been condemned to death by the Court."

> **T.** XIV 12. The defiant elder who has taught, and practised according to his teaching, is guilty. If he have taught and not practised he is free. If he have taught with the intention of practising, even if he have not actually practised his teaching, he is guilty.

(4) The False Prophet.

XI. 5. "The false prophet"[5] is he who prophe- **M.** sies what he has not heard, and what was not told

---

tradition (of equal authority with the Law of Moses; see *Pirke Aboth* I. 1 ff.) does not, to the same degree, stand self-condemned; and is, therefore, the more pernicious. Cf. Matt. 15. 6; Mark 7. 8.

[1] Deut. 6. 8.

[2] The Scribes ordain four; Exod. 13. 1–10; 11–16; Deut. 6. 4–9; 11. 13–21.

[3] Deut. 17. 13.

[4] For reasons which he gives in *Tosefta* XI. 7.

[5] Deut. 18. 20.

M. him;[1] whereas he who suppresses his prophetic message, or regards as exaggerated the words of another prophet, or transgresses his own words, his death is left in the hands of Heaven, as it is written: I WILL REQUIRE IT OF HIM.[2]

T. XIV. 13. He who prophesies in order to abrogate anything of what is written in the Law, is guilty. R. Shimeon says: If he prophesy in such a way as partly to abrogate and partly to support, he is free from penalty. If he have prophesied in the name of an idol, even if he maintain it one day and withdraw it another, he is guilty.

He who prophesies what he has not heard, like Zedekiah the son of Chenaanah[3]; or prophesies what has not been told him, like Hananiah the son of Azzur[4]—who heard what Jeremiah the prophet was prophesying in the upper street and went and prophesied otherwise in the lower street; or suppresses his prophetic message, like Jonah, the son of Amittai[5]; or regards a prophetic message as exaggerated, like the companion of Micah[6]; or transgresses his own words like Iddo[7]; or changes his prophecy; or a stranger who ministers in the Temple; or a priest who ministers before he is fully cleansed,[8] or before he has made the atonement offering after his cleansing, or who ministers without the proper garments, or with hands and feet unwashed, or with hair unkempt, or after having

[1] Bomberg text adds a superfluous "*His death is at the hands of men.*"

[2] Deut. 18. 19.

[3] 1 Kings 22. 11.

[4] Jer. 28. 1 ff.

[5] Jonah 1. 3.

[6] 1 Kings 20. 35. The "certain man of the sons of the prophets" is identified with Micaiah the son of Imlah.

[7] 2 Chron. 9. 29; traditionally identified with the unknown prophet of 1 Kings 13.

[8] One who, having bathed to wash away defilement, ministers before evening; cf. Lev. 22. 6.

drunk wine: all of these are to die. By what means are they to die? At the hands of Heaven. **T.**

(5) He who prophesies in the Name of a False God.

XI. 6*a*. He who prophesies in the name of a false god,[1] is he who says: "Thus saith the god." Such a one is guilty even though his message confirm the *halaka* concerning unclean and clean things. **M.**

(6) The Adulterer.

6*b*. He who has criminal connexion with a man's wife: that is, at a time when the woman, after the marriage, has come under the control of the husband. Even though the marriage be not consummated, if he have criminal connexion with her, he is to be strangled.

(7) The False Witnesses against a Priest's Daughter.

6*c*. "The false witnesses against a priest's daughter, and the one who is her paramour":—all false witnesses are subject to the same death penalty (to which the accused has been made liable) except in the case of the false witnesses against the priest's daughter and her paramour (who are to be strangled).[2]

[1] Deut. 18. 20.

[2] The law of the false witness is derived from Deut. 19. 16 ff. On the "priest's daughter," see *Mishnah* IX. 1. Scripture (Lev. 21. 9) is silent as to the fate of the paramour; but since it must be assumed that he is to be put to death, and none of the three Biblical methods is authorized, "strangling" must be employed. See p. 95, note 3.

T. T. XIV. 17. All perjurers and illicit paramours are subject to the same death penalty to which their victim has been condemned: if it was stoning they are to be stoned; if it was burning they are to be burned. In what cases does this hold good? When the same death can be inflicted: when the death penalty attached to the crime is stoning, the accused is stoned, and also the perjurers; when burning is the penalty, both accused and perjurers are burnt. But in the present case, the unjustly accused is burnt, while the perjurers are strangled.

INDEX TO BIBLICAL QUOTATIONS IN *MISHNAH* AND *TOSEFTA*

Gen. 4. 10 . . M. 4. 5*a*
6. 3 . . . T. 13. 6
6. 3 . . . M. 10. 3*a*
7. 23 . . . T. 13. 6
9. 6 . . . T. 11. 4
11. 8 . . . T. 13. 7
13. 13 . . M. 10. 3*b*
13. 13 . . T. 13. 8
19. 22 . . T. 14. 4
37. 26 . . T. 1. 3
Exod. 15. 26 . M. 10. 1
17. 10 . . T. 4. 8
19. 31 . . T. 4. 7
21. 18 . . T. 12. 3
21. 19 . . M. 1. 4
21. 19 . . T. 3. 2
22. 1 . . . T. 11. 9
23. 2 . . . T. 3. 7
23. 2 . . . T. 3. 8
23. 2 . . . M. 1. 6
31. 14 . . T. 11. 3
33. 11 . . T. 4. 9
34. 6 . . . T. 13. 3
Lev. 5. 1 . . M. 4. 5*c*
19. 15 . . T. 6. 2
20. 14 . . T. 12. 1
20. 15 . . M. 1. 4
20. 15 . . T. 3. 1
20. 16 . . M. 1. 4
20. 16 . . T. 3. 1
21. 9 . . . T. 12. 1
21. 10 . . T. 4. 1
21. 12 . . M. 2. 1
24. 14 . . M. 6. 1
24. 22 . . M. 4. 1
Numb. 11. 16 . M. 1. 6
14. 23 . . T. 13 9*a*
14. 27 . . M. 1. 6
Numb. 14. 35 . M. 10. 3*c*
15. 31 . . T. 7. 3
16. 33 . . M. 10. 3*c*
35. 24 . . M. 1. 6
35. 24 . . T. 3. 7
35. 25 . . M. 1 6
35. 25 . . T. 3. 7
35. 29 . . T. 3. 10
Deut. 1. 17 . . T. 1. 7
1. 17 . . . T. 1. 8
4. 14 . . . T. 4. 7
12. 14 . . M. 10. 4
12. 17 . . T. 3. 6
13. 16 . . T. 14. 6
14. 23 . . T. 3. 5
14. 23 . . T. 3. 6
15. 20 . . T. 3. 6
16. 14 . . T. 4. 5
16. 18 . . T. 3. 10
17. 6 . . . T. 6. 6
17. 6 . . . T. 8. 3
17. 7 . . . M. 6. 4*a*
17. 7 . . . T. 12. 6
17. 8 ff. . . M. 11. 2
17. 13 . . M. 11. 4
17. 13 . . T. 11. 7
17. 14 f. . . T. 4. 5
17. 15 . . M. 2. 5
17. 16 . . T. 4. 5
17. 19 . . M. 2. 4
18. 19 . . M. 11. 5
19. 14 . . T. 7. 3
19. 16 . . T. 11. 5*a*
21. 10 . . M. 8. 2
21. 23 . . M. 6. 4*b*
24. 7 . . . M. 11. 1
25. 1–2 . . T. 7. 4
29. 27 . . T. 13. 12

Deut. 29. 28 . . M. 10. 3*d*
34. 9 . . T. 4. 9
Josh. 1. 8 . . T. 4. 9
6. 25 . . M. 6. 2
6. 26 . . T. 14. 6
Judg. 18. 30 . T. 14. 8
1 Sam. 8. 6 . . T. 4. 5
8. 20 . . T. 4. 5
2. 6 . . T. 13. 3
2. 6 . . M. 10. 3*c*
8. 11 f. . T. 4. 5
2 Sam. 3. 31 . M. 2. 3
3. 35 . . T. 4. 2*a*
8. 15 . . T. 1. 3
12. 8 . . M. 2. 1
20. 3 . . T. 4. 2
1 Kings 1. 33 . T. 4. 10
1. 43 . . T. 4. 4
4. 20 . . T. 4. 5
5. 6 . . T. 4. 5
8. 13 . . T. 13. 5
16. 34 . . T. 14. 7
19. 18 . . T. 10. 3
21. 18 . . T. 4. 6
2 Kings 2. 5 . . T 14. 10
4. 42 . . T. 2. 9
9. 26 . . T. 4. 6
30. 18 . . T. 2. 10
1 Chron. 2. 6 . T. 9. 5
28. 2 . . T. 4. 4
2 Chron. 19. 6 . T. 1. 9
33. 13 . . M. 10. 2
33. 19 . . T. 12. 11
Ezra 4. 7 . . T. 4. 7
7. 6 . . T. 4. 7
7. 19 . . T. 4. 7
Neh. 12. 31 . . T. 3. 4
Esth. 8. 9 . . T. 4. 8
Job 38. 14 . . T. 8. 5
Job 38. 15 . . T. 8. 6
Ps. 1. 5 . . M. 10. 3*b*
9. 18 . . T. 13. 2
10. 3 . . T. 1. 2
16. 8 . . T. 4. 7
26. 9 . . T. 9. 9
33. 11 . . T. 13. 6
49. 15 . . T. 13. 5
50. 5 . . M. 10. 3*c*
50. 5 . . T. 13. 10
50. 5 . . T. 13. 11
82. 1 . . T. 1. 9
95. 11 . . T. 13. 10
116. 1 ff. . T. 13. 3
116. 10 . . T. 13. 1
119. 176 . . T. 13. 9*b*
Prov. 11. 10 . . M. 4. 5*c*
11. 10 . . T. 14. 10
9. 11 f. . T. 8. 9
16. 31 . . T. 11. 8
17. 6 . . T. 11. 8
17. 14 . . T. 1. 6
20. 29 . . T. 11. 8
23. 20 . . M. 8. 2
Isa. 14. 23 . . T. 11. 8
27. 13 . . T. 13. 12
35. 10 . . T. 13. 11
66. 24 . . T. 13. 5
Jer. 34. 5 . . T. 4. 2
Dan. 4. 2 . . T. 13. 1
5. 8 . . T. 4. 7
12. 2 . . T. 13. 2
Zech. 8. 16 . . T. 1. 3
9. 12 . . T. 4. 7
13. 9 . . T. 13 3
Mal. 2. 6 . . T. 1. 2
3. 21 . . T. 13. 4
3. 19 . . T. 13. 1

RABBINICAL AUTHORITIES MENTIONED OR QUOTED IN TEXT

ABBA SHAUL (*c.* 150), Mish. 10. 1; Tos. 3. 4; 12. 7; 12. 8; 12. 10.

Akiba, R. (*c.* 130), Mish. 1. 4; 3. 4; 7. 11; 9. 6; 10. 1; 10. 3*c*; 10. 3*d*; 11. 4; Tos. 2. 8; 3. 5; 11. 5*c*; 12. 3; 12. 10; 13. 9*b*; 13. 10; 14. 3; 14. 6.

Ben Zakkai (*c.* 50), Mish. 5. 2.

Dostai b. Jehuda (*c.* 175), Tos. 3. 11.

Eleasar [b. Shamua] (*c.* 150), Mish. 1. 4; 6. 4*b*; 10. 3*c*; 10. 3*d*; Tos. 3. 1.

,, b. Jacob (*c.* 150), Tos, 1. 2.

,, b. Jose (*c.* 175), Tos. 4. 5.

,, b. Parta (*c.* 130), Tos. 4. 8.

,, b. Zadok (*c.* 70), Mish. 7. 2; Tos. 2. 13; 7. 9; 8. 1; 9. 11*a*; 11. 11.

,, of Modin (*c.* 130), Tos. 4. 8.

Eliezer [b. Hyrcanus] (*c.* 100), Tos. 9. 6*a*; 11. 5*c*; 13. 2; 13. 10; 14. 3; 14. 4.

,, b. Jacob (*c.* 100), Tos. 11. 9.

,, b. Jose the Galilaean (*c.* 160), Tos. 1. 2.

Gamaliel [I. Rabban] (*c.* 50), Tos. 2. 6.

,, [II. Rabban] (*c.* 100), Tos. 8. 1; 13. 1.

Hanania of Ono (*c.* 140), Tos. 2. 13.

Hillel (*c.* 10 B.C.), Tos. 7. 11.

Ishmael [b. Elisha] (*c.* 130), Tos. 3. 6; 6. 2.

Jannai (*c.* 200), Tos. 2. 5.

Jehoshua [b. Hanania] (*c.* 90), Mish. 7. 11; Tos. 2. 13; 13. 1; 13. 2; 14. 6.

,, b. Korha (*c.* 150), Mish. 7. 5; Tos. 1. 3; 1. 8; 5. 5*b*; 7. 2*b*; 13. 11.

Jehuda [b. Il'ai] (*c.* 150), Mish. 1. 3; 1. 6; 2. 1; 2. 2; 2. 3; 2. 4; 3. 1; 3. 4; 4. 3; 5. 3; 6. 2; 7. 2; 7. 3*a*; 7. 4; 8. 4; 9. 1*b*; 9. 3; 10. 2; 11. 1; 11. 4; Tos. 1. 1; 2. 7; 2. 11; 3. 9; 4. 1; 4. 2; 4. 5; 4. 6; 4. 7; 5. 1; 5. 2; 6. 2; 7. 5; 7. 6; 9. 1*b*; 9. 6*a*; 9. 11*b*; 10. 1; 10. 3; 10. 11; 11. 7; 11. 11; 12. 4*b*; 12. 11.

,, b. Bethira (*c.* 90), Tos. 13. 6; 13. 9*b*.

,, b. Lakish (*c.* 150), Tos. 1. 7.

,, b. Tabbai (*c.* 80 B.C.), Tos. 6. 6.

Jehuda ha-Nâsi ["Rabbi"] (*c.* 170 A.D.), Tos. 1. 1; 1. 5; 3. 7; 3. 9; 4. 7; 11. 8; 13. 12.
Johanan b. Beroka (*c.* 180), Mish. 11. 1
Jose [b. Halaphta] (*c.* 150), Mish 3. 4; 5. 1; 6. 4*b*; 9. 4; Tos. 1. 2; 2. 1; 2. 7; 3. 5; 4. 5; 4. 7; 7. 1; 9. 1*a*; 9. 4; 10. 2; 11. 1; 11. 5*a*; 12. 5; 14. 6.
,, b. Jebuda [b. Il'ai] (*c.* 170), Mish. 8. 3; Tos. 9. 4; 11. 1.
,, the Galilaean (*c.* 180), Tos. 3. 8; 14. 6.
Meir (*c.* 150), Mish. 1. 1; 1. 2; 2. 1; 3. 1; 3. 2; 6. 3; 6. 5*a*; 7. 8*b*; Tos. 1. 1; 1. 2; 2. 1; 2. 9; 5. 1; 5. 2; 6. 4; 7. 7; 8. 6; 9. 7; 11. 7; 14. 6.
Menahem b. Jose (*c.* 190), Tos. 13. 6.
Nehemia (*c.* 150), Mish. 1. 6; 9. 1*b*; 10. 3*b*; Tos. 3. 9; 5. 2.
Nehorai (*c.* 160), Tos. 4. 5.
Papias (*c.* 130), Tos. 2. 13. "Rabbi"; see Jehuda ha-Nâsi.
Shimeon [b. Jochai] (*c.* 150), Mish. 1. 3; 2. 4; 3. 3; 7. 1; 9. 2; 9. 3; Tos. 2. 7; 2. 8; 2. 11; 5. 5*b*; 9. 6*a*; 10. 5; 11. 5*b*; 12. 2; 12. 4*b*; 14. 1; 14. 4; 14. 5; 14. 13.
,, b. Eleazar (*c.* 180), Tos. 4. 8; 9. 1*a*; 10. 5; 11. 6*a*; 14. 10.
,, b. Gamaliel (*c.* 150), Mish. 1. 2; 3. 8; Tos. 1. 9; 2. 2; 2. 5; 2. 13; 3. 10; 7. 1.
,, b. Jehuda [of Kephar Akkos] (*c.* 150), Tos. 2. 11; 11. 5*b*; 11. 8; 13. 12.
,, b. Menasia (*c.* 150), Tos. 1. 6; 13. 11.
,, b. Shatah (*c.* 80 B.C.), Mish. 6. 4*b*; Tos. 6. 6; 8. 3.
,, the Temanite (*c.* 120 A.D.), Tos. 12. 3.
,, b. Zoma (*c.* 130), Tos. 3. 5.

GENERAL INDEX

AARON, 27
Ab beth din, 75
Abigail, 49
Abner, 48
Achan, 88, 89
Adam, the First, 79
Adultery, 69, 103, 114, 141
A fortiori argument, 74, 132
Ahab, 121, 123, 135
Ahaz, 121
Ahitophel, 121
Analogy, argument from, 74
Appeal, courts of, 67, 137 f.
Arbitration, 26 ff.

Baal Peor, 99
Babel, Tower of, 125
Balaam, 121
Beguiled city, 115, 129 ff.
Ben Sira, 120 *n.*
Bethyra, Elders of, 76 *n.*
Blasphemy, 98, 119 *n.*, 120, 121
Boethuseans, 66
Burglary with violence, 112
Burning, method of, 93 f.
—— those liable to, 114

Cain, 78
Capital cases, 23 *n.*, 82
Confession required before death, 88, 89
Crimes, unnatural, 96 f., 113
Cursing of parents, 102

David, 28, 48, 50, 51, 53, 56
Dead, disposal of, 92, 93
—— enquiring of the, 101
Debate, rules in, 73
Decapitation, method of, 94
—— those liable to, 115, 129
Doeg, 121

Elder, the defiant, 137 ff.
Elisha, 34
Epicureans, 120, 120 *n.*, 123
Evidence, 64 f.
Ezra, 53

Flood, generation of the, 124

Gezera Shawa, xvi, 72 *n.*, 97, 106 *n.*

Haggada, 74, 74 *n.*
Halaka, 26, 45, 74, 74 *n.*
Halisa, 25, 47, 50, 97, 113
Hanging of the stoned, 90 f.
Hezekiah, 34 f.
High-priest, 46
Homicide, justifiable, 113
—— unintentional, 72

Idolatry, 98 f., 113
—— incitement to, 103 f.
Imprisonment, those liable to, 118 f.
Incest, 96, 97
Intercalation of month, 24, 71
—— —— year, 24, 30 ff., 71
Irregular justice, 119

Jabne, viii, 75, 82, 139
Jehu, 56
Jericho, 134 f.
Jeroboam, 121, 123
Jesus, trial of, ix f.
Joseph, 27
Joshua, 55, 88
Judges, eligibility of, 57 ff.
—— qualifications for, 68

King, 48 ff.
Kinsfolk as witnesses or judges, 60, 61

Korah, the company of, 127
Kosem, cursing by, 119, 119 *n.*

Libel, 23
Log, 108, 108 *n.*
Lot, 132

Manasseh, 121, 135
Manê, 61
Merkolis, Mercurius, 99, 136
Midrash, 49 *n.*, 74, 74 *n.*
Minors, 121 *n.*, 131
Moloch, 100
Moses, 27, 53
Murder, 115 ff.

Naboth, 52
Nasi, 25, 75 *n.*, 77
Non-capital cases, 23 ff., 62 ff., 70 f.

Oaths, 57, 58

Passover, 33
Perjury, 66, 141 f.
Phylacteries, 53 *n.*, 139
Priesthood, 69
Priest's daughter, 141
Priests, misconduct of, 119, 140
Prophet, false, 139 ff.
Procedure, 62–87

Rabbis. *See special index.*
Resurrection, 120
Robbery, 24

Sabbatic year, 34
Sabbath, breach of, 101, 113
Sacrilege, 119
Sagan, 46 *n.*, 47
Sanhedrin, arrangement of, 75, 77
—— number of members, 42
—— territory of jurisdiction, 45
Sanhedrin, the greater, 38
—— the lesser, 36
Sanhedrins, tribal, 38
Scourging, 24, 118, 119
Seâ, 27
Second Tithe, 25, 40 ff.
Seduction, 23, 102
Semika, 26
Sheol, 122, 123
Sodom, men of, 125
Solomon, 51, 56, 109
Song of Songs, 121
Sorcery, 106 f.
Stoning, method of, 87 ff.
—— those liable to, 95 f.
Strangulation, 95 *n.*; method of, 95
—— those liable to, 95 *n.*, 118, 136 f.
Stubborn and rebellious son, 107 ff.
Superstition, 101

Temple, strangers in, 119, 120 *n.*
Tithes, 25 *n.*
Tosefta, connexion with *Mishnah*, v *n.*, vi *n.*
Trials, times of, 71
Tritimor, 108, 108 *n.*

Voting, method of, 69, 71

War, 49
Witchcraft, 101
Witnesses, eligibility of, 57 ff.
—— false, 141
—— formula of admonishment of, 78
—— number required, 79
—— questioning of, 70, 82
Women witnesses, 60
Writing, early form of, 54

Zuz, 62 *n.*

PRINTED IN GREAT BRITAIN BY RICHARD CLAY & SONS, LIMITED, BRUNSWICK ST., STAMFORD ST., S.E. 1, AND BUNGAY, SUFFOLK.

PUBLICATIONS

OF THE

S. P. C. K.

BOOKS FOR STUDENTS AND OTHERS

SOCIETY FOR PROMOTING
CHRISTIAN KNOWLEDGE

LONDON: NORTHUMBERLAND AVENUE, W.C. 2
43 QUEEN VICTORIA STREET, E.C. 4
BRIGHTON: 129 NORTH STREET. BATH: 39 GAY STREET
New York and Toronto: THE MACMILLAN COMPANY

And of all Booksellers.

Translations of Early Documents

A Series of texts important for the study of Christian origins. Under the Joint Editorship of the Rev. W. O. E. Oesterley, D.D., and the Rev. Canon G. H. Box, D.D.

FIRST SERIES—Palestinian-Jewish and Cognate Texts (Pre-Rabbinic)

Jewish Documents of the Time of Ezra

Translated from the Aramaic by A. E. Cowley, Litt.D. Sub-Librarian of the Bodleian Library, Oxford. 4*s.* 6*d.*

The Wisdom of Ben-Sira (Ecclesiasticus)

By the Rev. W. O. E. Oesterley, D.D., Vicar of St. Alban's, Bedford Park, W.; Examining Chaplain to the Bishop of London. 3*s.* 6*d.*

The Book of Enoch

By the Rev. R. H. Charles, D.D., Canon of Westminster. 3*s.* 6*d.*

The Book of Jubilees

By the Rev. Canon Charles. 4*s.* 6*d.*

The Testaments of the Twelve Patriarchs

By the Rev. Canon Charles. 3*s.* 6*d.*

The Ascension of Isaiah

By the Rev. Canon Charles. Together with *The Apocalypse of Abraham* in one volume. 4*s.* 6*d.*

The Apocalypse of Ezra (ii. Esdras)

By the Rev. Canon Box. 3*s.* 6*d.*

The Apocalypse of Baruch

By the Rev. Canon Charles. Together with *The Assumption of Moses* in one volume. 3*s.* 6*d.*

Translations of Early Documents (continued).

The Apocalypse of Abraham
By the Rev. Canon Box. Together with *The Ascension of Isaiah* in one volume. 4*s.* 6*d.*

The Assumption of Moses
By Rev. W. J. Ferrar, M.A. Together with *The Apocalypse of Baruch* in one volume. 3*s.* 6*d.*

The Biblical Antiquities of Philo
By M. R. James, Litt.D., F.B.A., Hon. Litt.D., Dublin, Hon. LL.D., St. Andrews, Provost of King's College, Cambridge. 8*s.* 6*d.*

The Lost Apocrypha of the Old Testament
By M. R. James, Litt.D. 5*s.* 6*d.*

SECOND SERIES—Hellenistic-Jewish Texts

The Wisdom of Solomon
By W. O. E. Oesterley, D.D. 3*s.* 6*d.*

The Sibylline Oracles (Books iii-v)
By the Rev. H. N. Bate, M.A., Examining Chaplain to the Bishop of London. 3*s.* 6*d.*

The Letter of Aristeas
By H. St. John Thackeray, M.A., King's College, Cambridge. 3*s.* 6*d.*

Selections from Josephus
By H. St. J. Thackeray, M.A. 5*s.*

The Third and Fourth Books of Maccabees
By the Rev. C. W. Emmet, B.D. 3*s.* 6*d.*

The Book of Joseph and Asenath
Translated from the Greek by E. W. Brooks. 3*s.* 6*d.*

THIRD SERIES—Palestinian-Jewish and Cognate Texts (Rabbinic)

The Sayings of the Jewish Fathers (Pirke Aboth). Translated from the Hebrew by W. O. E. OESTERLEY, D.D. 5*s.*

Tractate Berakoth (Benedictions). With Introduction and Notes by A. LUKYN WILLIAMS, D.D. 6*s.*

Tractate Sanhedrin. Mishnah and Tosefta. The Judicial procedure of the Jews as codified towards the end of the second century A.D. Translated from the Hebrew, with brief Annotations, by the Rev. HERBERT DANBY, M.A. 6*s.*

Kimhi's Commentary on the Psalms (Book I, Selections). By Rev. R. G. FINCH, B.D. 7*s.* 6*d.*

Select Passages Illustrating Neoplatonism. Translated with an Introduction by E. R. DODDS, University College, Reading. 5*s.*

Jewish Literature and Christian Origins: A Short Survey of the Literature of Rabbinical and Mediæval Judaism. By W. O. E. OESTERLEY, M.A., D.D., and G. H. BOX, M.A., D.D. 12*s.* 6*d.*

The Uncanonical Jewish Books
A Short Introduction to the Apocrypha and the Jewish Writings 200 B.C.–A.D. 100. By W. JOHN FERRAR, M.A. 3*s.* 6*d.*

Barnabas, Hermas and the Didache
Being the Donnellan Lectures, 1920, by J. ARMITAGE ROBINSON, D.D., Dean of Wells. 6*s.*

The Acts of the Apostles
Translated from the Codex Bezae, with an Introduction on its Lucan Origin and importance by Canon J. M. WILSON, D.D. 3*s.* 6*d.*

Pistis Sophia
Literally Translated from the Coptic by GEORGE HORNER. With an Introduction by F. LEGGE, F.S.A. 16*s.*

Translations of Christian Literature

A NUMBER of translations from the Fathers have already been published by the S.P.C.K. under the title "Early Church Classics." It is now proposed to enlarge this series to include texts which are neither "early" nor necessarily "classics." The divisions at present proposed are given below. Volumes belonging to the original series are marked with an asterisk.

SERIES I.—GREEK TEXTS.

Dionysius the Areopagite: The Divine Names and the Mystical Theology. By C. E. ROLT. *7s. 6d.*

The Library of Photius. By J. H. FREESE, M.A. Vol. I. *10s.*

The Apocriticus of Macarius Magnes. By T. W. CRAFER, D.D. *7s. 6d.*

***The Epistle of St. Clement, Bishop of Rome.** By the Rt. Rev. J. A. F. GREGG, D.D. *1s. 9d.* (*Out of print.*)

***Clement of Alexandria: Who is the Rich Man that is being saved?** By P. M. BARNARD, B.D. *1s. 9d.*

***St. Chrysostom: On the Priesthood.** By T. A. MOXON. *2s. 6d.*

The Doctrine of the Twelve Apostles. By C. BIGG, D.D. Revised by the Right Rev. A. J. MACLEAN, D.D. *3s. 6d.*

***The Epistle to Diognetus.** By the Rt. Rev. L. B. RADFORD, D.D. *2s. 6d.*

St. Dionysius of Alexandria. By C. L. FELTOE, D.D. *4s.*

***The Epistle of the Gallican Churches: Lugdunum and Vienna.** With an Appendix containing Tertullian's Address to Martyrs and the Passion of St. Perpetua. By T. H. BINDLEY, D.D. *1s. 9d.*

SERIES I.—GREEK TEXTS (*continued*).

***St. Gregory of Nyssa: The Catechetical Oration.** By the Ven. J. H. Srawley, D.D. *2s. 6d.*

***St. Gregory of Nyssa: The Life of St. Macrina.** By W. K. Lowther Clarke, B.D. *1s. 9d.*

Gregory Thaumaturgus (Origen the Teacher): the Address of Gregory to Origen, with Origen's Letter to Gregory. By W. Metcalfe, B.D. *3s. 6d.* [*Re-issue.*

***The Shepherd of Hermas.** By C. Taylor, D.D. 2 vols. *2s. 6d.* each.

Eusebius: The Proof of the Gospel. By W. J. Ferrar. 2 vols. *30s.* (*Not sold separately.*)

Hippolytus: Philosophumena. By F. Legge. 2 vols. *30s.* (*Not sold separately.*)

The Epistles of St. Ignatius. By the Ven. J. H. Srawley, D.D. *4s.*

***St. Irenaeus: Against the Heresies.** By F. R. M. Hitchcock, D.D. 2 vols. *2s. 6d.* each.

Palladius: The Lausiac History. By W. K. Lowther Clarke, B.D. *5s.*

***St. Polycarp.** By B. Jackson. *1s. 9d.*

The Dialogue of Palladius concerning the Life of Chrysostom. By Herbert Moore. *8s. 6d.*

Fifty Spiritual Homilies of St. Macarius the Egyptian. By A. J. Mason, D.D. *15s.*

SERIES II.—LATIN TEXTS.

Tertullian's Treatises concerning Prayer, concerning Baptism. By A. Souter, D.Litt. *3s.*

Tertullian against Praxeas. By A. Souter, D.Litt. *5s.*

SERIES II.—LATIN TEXTS (*continued*).

Tertullian concerning the Resurrection of the Flesh. By A. SOUTER, D.Litt. 12*s.* 6*d.*

Novatian on the Trinity. By H. MOORE. 6*s.*

St. Augustine: The City of God. By F. R. M. HITCHCOCK, D.D. 3*s.* [*Re-issue.*

***St. Cyprian: The Lord's Prayer.** By T. H. BINDLEY, D.D. 2*s.*

Minucius Felix: The Octavius. By J. H. FREESE. 3*s.* 6*d.*

***Tertullian: On the Testimony of the Soul and On the Prescription of Heretics.** By T. H. BINDLEY, D.D. 2*s.* 6*d.*

***St. Vincent of Lerins: The Commonitory.** By T. H. BINDLEY, D.D. 2*s.* 6*d.*

St. Bernard: Concerning Grace and Free Will. By WATKIN W. WILLIAMS. 7*s.* 6*d.*

The Life of Otto: Apostle of Pomerania, 1060–1139. By EBO and HERBORDUS. Translated by CHARLES H. ROBINSON, D.D. 8*s.* 6*d.*

Anskar, the Apostle of the North, 801–865. By CHARLES H. ROBINSON, D.D. Translated from the Vita Anskarii by BISHOP RIMBERT, his fellow-missionary and successor. 4*s.* [Published by S.P.G.]

Select Epistles of St. Cyprian treating of the Episcopate. Edited with Introduction and Notes by T. A. LACEY, M.A. 8*s.* 6*d.*

SERIES III.—LITURGICAL TEXTS.

EDITED BY C. L. FELTOE, D.D.

St. Ambrose: On the Mysteries and on the Sacraments. By T. THOMPSON, B.D., and J. H. SRAWLEY, D.D. 4*s.* 6*d.*

***The Apostolic Constitution and Cognate Documents, with special reference to their Liturgical elements.** By DE LACY O'LEARY, D.D. 1*s.* 9*d.*

SERIES III.—LITURGICAL TEXTS (*continued*).

The Liturgy of the Eighth Book of the Apostolic Constitution, commonly called the Clementine Liturgy. By R. H. CRESSWELL. 3*s.*

The Pilgrimage of Etheria. By M. L. McCLURE. 6*s.*

Bishop Sarapion's Prayer-Book. By the Rt. Rev. J. WORDSWORTH, D.D. 2*s.* 6*d.*

The Swedish Rite. By E. E. YELVERTON. 8*s.* 6*d.*

Twenty-five Consecration Prayers. With Notes and Introduction by ARTHUR LINTON. 7*s.* 6*d.*

SERIES IV.—ORIENTAL TEXTS.

The Ethiopic Didascalia. By J. M. HARDEN, B.D. 9*s.*

The Apostolic Preaching of Irenaeus (Armenian). By J. A. ROBINSON, D.D. 7*s.* 6*d.*

SERIES V.—LIVES OF THE CELTIC SAINTS.

EDITED BY ELEANOR HULL.

St. Malachy of Armagh (St. Bernard). By H. J. LAWLOR, D.D. 12*s.*

The Latin and Irish Lives of Ciaran. Translated and Annotated by R. A. STEWART MACALISTER, Litt.D., F.S.A 10*s.*

St. Patrick: Life and Works. By N. J. D. WHITE, D.D. 6*s.* 6*d.*

St. David. By A. W. WADE-EVANS. 7*s.* 6*d.*

SERIES VI.—SELECT PASSAGES.

Documents Illustrative of the History of the Church. Vol. I.: to A.D. 313. Vol. II.: A.D. 313–A.D. 461. Edited by B. J. KIDD, D.D. Vol. I. 7*s.* 6*d.* Vol. II. 10*s.*

SERIES VII.

Lives of the Serbian Saints. By VOVESLAV YANICH D.D., and C. P. HANKEY, M.A. 6*s.* 6*d.*

Handbooks of Christian Literature

The Letters of St. Augustine. By the Rev. Canon W. J. SPARROW SIMPSON, D.D. 10*s.*

The Early Christian Books. A Short Introduction to Christian Literature to the Middle of the Second Century. By the Rev. W. JOHN FERRAR, M.A. 3*s.* 6*d.*

The Inspiration and Authority of Holy Scripture. A Study in the Literature of the First Five Centuries. By G. DUNCAN BARRY, B.D. 4*s.* 6*d.*

The Eucharistic Office of the Book of Common Prayer. By the Rev. LESLIE WRIGHT, M.A., B.D. 3*s.* 6*d.*

Helps for Students of History

Edited by C. JOHNSON, M.A., H. W. V. TEMPERLEY, M.A., and J. P. WHITNEY, D.D., D.C.L.

1. **Episcopal Registers of England and Wales.** By R. C. FOWLER, B.A., F.S.A. 6*d.*

2. **Municipal Records.** By F. J. C. HEARNSHAW, M.A., LL.D. 1*s.*

3. **Medieval Reckonings of Time.** By REGINALD L. POOLE, LL.D., Litt.D. 6*d.*

4. **The Public Record Office.** By C. JOHNSON, M.A. 6*d.*

5. **The Care of Documents.** By C. JOHNSON, M.A. 6*d.*

6. **The Logic of History.** By C. G. CRUMP. 8*d.*

7. **Documents in the Public Record Office, Dublin.** By R. H. MURRAY, Litt.D. 8*d.*

8. **The French Wars of Religion.** By ARTHUR A. TILLEY, M.A. 6*d.*

By Sir A. W. WARD, Litt.D., F.B.A.

9. **The Period of Congresses—I. Introductory.** 8*d*.

10. **II. Vienna and the Second Peace of Paris.** 1*s*.

11. **III. Aix-la-Chapelle to Verona.** 1*s*.

Nos. 9, 10, and 11 in one volume, cloth, 3*s*. 6*d*.

12. **Securities of Peace: A Retrospect (1848–1914).** Paper, 2*s*.; cloth, 3*s*.

---

13. **The French Renaissance.** By A. A. TILLEY, M.A. 8*d*.

14. **Hints on the Study of English Economic History.** By W. CUNNINGHAM, D.D., F.B.A., F.S.A. 8*d*.

15. **Parish History and Records.** By A. HAMILTON THOMPSON, M.A., F.S.A. 8*d*.

16. **A Short Introduction to the Study of Colonial History.** By A. P. NEWTON, M.A., D.Litt. 6*d*.

17. **The Wanderings and Homes of Manuscripts.** By M. R. JAMES, Litt.D., F.B.A. Paper, 2*s*.; cloth, 3*s*.

18. **Ecclesiastical Records.** By the Rev. CLAUDE JENKINS, M.A., Librarian of Lambeth Palace. 1*s*. 9*d*.

19. **An Introduction to the History of American Diplomacy.** By CARL RUSSELL FISH, Ph.D. 1*s*.

20. **Hints on Translation from Latin into English.** By ALEXANDER SOUTER, D.Litt. 6*d*.

21. **Hints on the Study of Latin (A.D. 125-750).** By ALEXANDER SOUTER, D.Litt. 8*d*.

22. **Report of the Historical MSS. Commission.** By R. A. ROBERTS, F.R.Hist.S. 2*s*. 6*d*.

23. **A Guide to Franciscan Studies.** By A. G. LITTLE. 1*s*. 6*d*.

24. **A Guide to the History of Education.** By JOHN WILLIAM ADAMSON. 8*d*.

25. **Introduction to the Study of Russian History.** By W. F. REDDAWAY. 6*d*.

26. **Monuments of English Municipal Life.** By W. CUNNINGHAM, D.D., F.B.A. *1s.*

27. **La Guyenne Pendant la Domination Anglaise, 1152-1453.** Par CHARLES BÉMONT. *1s. 4d.*

28. **The Historical Criticism of Documents.** By R. L. MARSHALL, M.A., LL.D. *1s. 3d.*

29. **The French Revolution.** By G. P. GOOCH. *8d.*

30. **Seals.** By H. S. KINGSFORD. *1s. 3d.*

31. **A Student's Guide to the Manuscripts of the British Museum.** By JULIUS P. GILSON, M.A. *1s.*

32. **A Short Guide to some Manuscripts in the Library of Trinity College, Dublin.** By R. H. MURRAY, Litt.D. *1s. 9d.*

33–35. **Ireland.** No. 33, 1494–1603; No. 34, 1603–1714; No. 35, 1714–1829. By R. H. MURRAY, Litt.D. Each, *1s.* Nos. 33–35 in one volume, *3s. 6d.*

36. **Coins and Medals.** By G. F. HILL, M.A., F.B.A. *1s. 6d.*

37. **The Latin Orient.** By W. MILLER, M.A. *1s. 6d.*

38. **The Turkish Restoration in Greece, 1718-1797.** By WILLIAM MILLER, M.A. *1s. 3d.*

39. **Sources for the History of Roman Catholics in England, Ireland and Scotland, 1533–1795.** By JOHN HUNGERFORD POLLEN, S.J. *1s. 3d.*

40. **English Time Books.—Vol. I. English Regnal Years and Titles, Hand-lists, Easter Dates, etc.** Compiled by J. E. W. WALLIS, M.A. *4s.*

41. **Knights of Malta, 1523–1798.** By R. COHEN. *2s.*

42. **Records for the Early History of South Africa.** By C. GRAHAM BOTHA. *1s.*

43. **The Western Manuscripts of the Bodleian Library.** By H. H. E. CRASTER, D.Litt. *1s. 3d.*

44. **Geographical Factors.** By H. J. FLEURE. *6d.*

45. **The Colonial Entry Books. A Brief Guide to the Colonial Records in the Public Record Office before 1696.** By C. S. S. HIGHAM, M.A. *1s. 6d.*

46. **The University Library, Cambridge.** By H. GIDNEY ALDIS, M.A. *6d.*

47. **A Students' Guide to the Manuscripts relating to English History in the Seventeenth Century in the Bodleian Library.** By G. DAVIES. 1*s.*

48. **History and Ethnology.** By W. R. H. RIVERS, M.D., LL.D., F.R.S. 6*d.*

49. **Some Aspects of Boundary Settlement at the Peace Conference.** By ALAN G. OGILVIE, B.Sc. 6*d.*

50. **The Mechanical Processes of the Historian.** By CHARLES JOHNSON, M.A., F.S.A. 6*d.*

51. **The Sources for the History of the Council in the Sixteenth and Seventeenth Centuries.** By E. R. ADAIR, M.A. 3*s.* 6*d.*

The Story of the English Towns

Popular but Scholarly Histories of English Towns for the general reader, but suitable also for use in schools. With Maps, Plans, and Illustrations. Cloth boards. 4*s.*

The City of London. By P. H. DITCHFIELD, M.A., F.S.A.

Bath. By CONSTANCE SPENDER and EDITH THOMPSON.

Birmingham. By J. H. B. MASTERMAN.

Canterbury. By DOROTHY GARDINER. (Cheaper ed. 2*s.* 6*d.*)

Halifax. By J. S. FLETCHER.

Harrogate and Knaresborough. By J. S. FLETCHER.

Hastings. By L. F. SALZMAN, M.A., F.S.A.

Leeds. By J. S. FLETCHER.

Leicester. By S. H. SKILLINGTON. 5*s.*

Newcastle-upon-Tyne. By F. J. C. HEARNSHAW, M.A., LL.D.

Nottingham. By E. L. GUILFORD, M.A.

Peterborough. By K. and R. E. ROBERTS.

Plymouth. By A. L. SALMON.

Pontefract. By J. S. FLETCHER.

St. Albans. By W. PAGE, F.S.A.

Sheffield. By J. S. FLETCHER.

Westminster. By H. F. WESTLAKE, M.A., F.S.A.

Studies in Church History

The Cathedral Church of Hereford: Its History and Constitution. By ARTHUR THOMAS BANNISTER, M.A. 7*s.* 6*d.*

The Christian Church in the Epistles of St. Jerome. By L. HUGHES, M.A., D.D. 4*s.* 6*d.*

The Prelude to the Reformation. By the Rev. R. S. ARROWSMITH. 8*s.*

The Albigensian Heresy. By H. J. WARNER, B.D. 3*s.* 6*d.*

The Early Franciscans and Jesuits. A Study in Contrasts. By ARTHUR S. B. FREER, M.A. 6*s.*

Some Eighteenth-Century Churchmen: Glimpses of English Church Life in the Eighteenth Century. By G. LACEY MAY, M.A. With Illustrations. 9*s.*

Christian Monasticism in Egypt to the Close of the Fourth Century. By W. H. MACKEAN, D.D. 8*s.*

The Venerable Bede. His Life and Writings. By the Rt. Rev. G. F. BROWNE, D.D. With Illustrations. 10*s.*

The Reformation in Ireland. A Study of Ecclesiastical Legislation. By H. HOLLOWAY, M.A. 7*s.* 6*d.*

The Emperor Julian. An Essay on His Relations with the Christian Religion. By EDWARD J. MARTIN, B.D. 3*s.* 6*d.*

The Importance of Women in Anglo-Saxon Times; The Cultus of St. Peter and St. Paul, and other Addresses. By the Right Rev. G. F. BROWNE, D.D. With two Illustrations. 7*s.* 6*d.*

Essays Liturgical and Historical. By J. WICKHAM LEGG, D.Litt., F.S.A. 5*s.*

French Catholics in the Nineteenth Century. By the Rev. W. J. SPARROW SIMPSON, D.D. 5*s.*

An Abbot of Vézelay. By ROSE GRAHAM, F.R.Hist.S. With eight Illustrations. 3*s.* 6*d.*

The Monastic Chronicler and the Early School of St. Albans. By CLAUDE JENKINS, M.A. 3*s.* 6*d.*

Texts for Students

1. **Select Passages from Josephus, Tacitus, Suetonius, Dio Cassius,** illustrative of Christianity in the First Century. Arranged by H. J. WHITE, D.D. 3*d.*
2. **Selections from Matthew Paris.** By C. A. J. SKEEL, D.Lit. 9*d.*
3. **Selections from Giraldus Cambrensis.** By C. A. J. SKEEL, D.Lit. 9*d.*
4. **Libri Sancti Patricii.** The Latin Writings of St. Patrick, etc. By NEWPORT J. D. WHITE, D.D. 6*d.*
5. **A Translation of the Latin Writings of St. Patrick.** By NEWPORT J. D. WHITE, D.D. 6*d.*
6. **Selections from the Vulgate.** 9*d.*
7. **The Epistle of St. Clement of Rome.** 6*d.*
8. **Select Extracts from Chronicles and Records relating to English Towns in the Middle Ages.** By F. J. C. HEARNSHAW, M.A., LL.D. 9*d.*
9. **The Inscription on the Stele of Méša.** Commonly called the Moabite Stone. Translated by the Rev. H. F. B. COMPSTON, M.A. 6*d.*
10. **The Epistles of St. Ignatius.** 1*s.*
11. **Christian Inscriptions.** By H. P. V. NUNN, M.A. 1*s.*
12. **Selections from the "Historia Rerum Anglicarum" of William of Newburgh.** 1*s.* 3*d.*
13. **The Teaching of the Twelve Apostles.** By T. W. CRAFER, D.D. 4*d.* 13A. **An English Translation.** 3*d.*
14. **The Epistle of Barnabas.** Edited by T. W. CRAFER, D.D. 6*d.* 14A. **An English Translation.** 6*d.*
15. **The Code of Hammurabi.** By P. HANDCOCK, M.A. 1*s.*
16. **Selections from the Tell El-Amarna Letters.** By PERCY HANDCOCK, M.A. 4*d.*
17. **Select Passages Illustrating Commercial and Diplomatic Relations between England and Russia.** By A. WEINER, M.A., F.R.Hist.S. 1*s.* 6*d.*
18. **The Early History of the Slavonic Settlements in Dalmatia, Croatia and Serbia.** By J. B. BURY. 2*s.*
19. **Select Extracts Illustrating Florentine Life in the 13th and 14th Centuries.** By E. G. ROPER, B.A. 1*s.*
20. **Select Extracts Illustrating Florentine Life in the 15th Century.** By ESTHER G. ROPER, B.A. 1*s.*

Nos. 19 and 20 in one volume, 2*s.* 6*d.*

Texts for Students (continued).

21. **Itinerarium Regis Ricardi.** By M. T. STEAD. 1*s.* 9*d.*

22. **The Second Epistle of Clement to the Corinthians.** 6*d.*

22A. **An English Translation of the above.** 6*d.*

23. **Extracts Illustrating Sports and Pastimes in the Middle Ages.** By E. L. GUILFORD, M.A. 1*s.* 9*d.*

24. **Babylonian Flood Stories.** 25. **Babylonian Penitential Psalms.** By P. HANDCOCK, M.A. 6*d.* each.

26. **The Hymn of Cleanthes.** Translated with Introduction and Notes by E. H. BLAKENEY, M.A. 6*d.*

27. **The Foundations of Modern Ireland.** The Civil Policy of Henry VIII. and the Reformation. By CONSTANTIA MAXWELL, M.A. 1*s.* 6*d.*

28. **Selections from the Qur'án.** Arranged by H. U. WEITBRECHT STANTON, M.D., D.D. 1*s.*

29. **The Tome of Pope Leo the Great.** Latin Text with Translation, Introduction, and Notes, by E. H. BLAKENEY, M.A. 1*s.*; duxeen boards, 1*s.* 6*d.*

30. **The Book of Amos.** Hebrew Text edited by THEODORE H. ROBINSON, M.A., D.D. 2*s.* 6*d.*

31. **Sukkah. (A Critical Hebrew Text.)** By A. W. GREENUP, D.D. 2*s.* 6*d.*

32. **Readings from the Apocrypha.** Selected and Annotated by E. H. BLAKENEY, M.A. 1*s.*; cloth, 1*s.* 6*d.*

33 & 34. **English Social Life in the Eighteenth Century.** Illustrated from Contemporary Sources. By M. D. GEORGE. Each 1*s.* 6*d.* In one vol. cloth, 3*s.* 6*d.*

35. **Texts Illustrating Ancient Ruler-Worship.** Edited by C. LATTEY, S.J., M.A. 6*d.*

35A. **An English Translation of the above.** 6*d.*

36. **Select Passages Illustrative of Neoplatonism.** Greek edition. Edited by E. R. DODDS, B.A. 4*s.* 6*d.*

37. **Traders in East and West.** Some Aspects of Trade in the 17th and 18th Centuries. By FLORENCE L. BOWMAN and ESTHER G. ROPER. 2*s.*

38. **Travellers and Travelling in the Middle Ages.** By E. L. GUILFORD, M.A. 2*s.*

Pioneers of Progress

MEN OF SCIENCE: Edited by S. CHAPMAN, M.A., D.Sc.
With Portrait. Paper cover, 1*s.*; cloth, 2*s.*

Galileo. By W. W. BRYANT, F.R.A.S.

Michael Faraday. By J. A. CROWTHER, D.Sc.

Alfred Russel Wallace. By L. T. HOGBEN, B.A., B.Sc.

Joseph Priestley. By D. H. PEACOCK, B.A., M.Sc., F.I.C.

Joseph Dalton Hooker. By F. O. BOWER, Sc.D., F.R.S.

Herschel. By HECTOR MACPHERSON, M.A., F.R.A.S., F.R.S.E.

Archimedes. By Sir THOMAS L. HEATH, K.C.B., F.R.S.

The Copernicus of Antiquity (Aristarchus of Samos). By Sir THOMAS L. HEATH, K.C.B., F.R.S.

John Dalton. By L. J. NEVILLE-POLLEY, B.Sc.

Kepler. By WALTER W. BRYANT, F.R.A.S.

Richard Arkwright. By J. H. CRABTREE. (Duxeen, 2*s.*)

EMPIRE BUILDERS: Edited by W. BASIL WORSFOLD, M.A. With Portrait. Paper cover, 1*s.*; cloth, 2*s.*

Sir Francis Drake. By WALTER J. HARTE, M.A.

Sir Robert Sandeman. By A. L. P. TUCKER, C.I.E.

Mungo Park. By W. H. HEWITT, B.A., B.Sc. (Duxeen, 2*s.* 6*d.*)

Richard Hakluyt. By FOSTER WATSON, D.Litt. (Duxeen, 2*s.* 6*d.*)

WOMEN: Edited by ETHEL M. BARTON.
With Illustrations. Paper cover, 2*s.*; cloth, 3*s.*

Florence Nightingale. By E. F. HALL.

Dorothea Beale. By ELIZABETH H. SHILLITO, B.A.

Elsie Inglis. By EVA SHAW MCLAREN.

Josephine Butler, and her work for Social Purity. By L. HAY COOPER. With Two Portraits. Cloth. 5*s.*

[1.12.24.

Printed in Great Britain by R. Clay & Sons, Ltd., Bungay, Suffolk.